



City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, December 16, 2014, 6:00 p.m.
Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency

Call to Order

Pledge of Allegiance

Changes to the Agenda

Oath of Office Ceremony - Councilmember Jennifer Mendoza and Councilmember Jerry Jones

Public Comment

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. Consent Calendar

(Note: The items listed on the Consent Calendar will be enacted in one motion unless removed from the Consent Calendar by Council, staff, or the public. Items that are pulled will be considered at the end of the agenda.)

A. Approval of Meeting Minutes

December 2, 2014 - Regular Meeting

Members present: Sessom, Gastil, Jones, and Vasquez

Reference: Susan Garcia, City Clerk

Recommendation: Approve Minutes

B. City of Lemon Grove Payment Demands

Reference: Cathy Till, Finance Director

Recommendation: Ratify Demands

C. Waive Full Text Reading of All Ordinances on the Agenda

Reference: James P. Lough, City Attorney

Recommendation: Waive the full text reading of all ordinances included in this agenda; Ordinances shall be introduced and adopted by title only

D. Local Appointments List Update

The City Council will accept and file an updated Local Appointments List as required by California Government Code 54970.

Reference: Susan Garcia, City Clerk

Recommendation: Accept and file Updated Local Appointments List

E. Mayor Pro Tem Rotation

The City Council will consider a resolution confirming the rotation of Councilmember Racquel Vasquez to serve as the Mayor Pro Tem commencing December 16, 2014 and establishing the Mayor Pro Tem rotation schedule for the subsequent two years.

Reference: Graham Mitchell, City Manager

Recommendation: Adopt Resolution

2. Lemon Grove Farmers Market Agreement

The City Council will consider a resolution approving an agreement with Kimberly Paris to manage a Lemon Grove Farmers Market at the Main Street Promenade after considering public comments.

Reference: Mike James, Public Works Director

Recommendation: Adopt Resolution

3. Public Safety Focus Group Report

The City Council will receive a report from the Public Safety Focus Group and provide direction.

Reference: Graham Mitchell, City Manager

Recommendation: Receive Report and Provide Direction

4. Lemon Grove Public Artwork

The City Council will consider a public artwork (a mural) at the overpass of State Route 94 at Buena Vista Avenue. The City Council will consider two resolutions in conjunction with this project: a resolution authorizing the submission of an encroachment permit to Caltrans and a resolution approving a Memorandum of Understanding between the City and Miguel Angel Godoy (the lead artist).

Reference: Carol Dick, Director of Development Service

Graham Mitchell, City Manager

Recommendation: Adopt Resolutions

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City.
(GC 53232.3 (d))

(53232.3.(d) states that members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.)

Department Director Reports (Non-Action Items)

Adjournment

In compliance with the Americans with Disabilities Act (ADA), the City of Lemon Grove will provide special accommodations for persons who require assistance to access, attend and/or participate in meetings of the City Council. If you require such assistance, please contact the City Clerk at (619) 825-3800 or email sgarcia@lemongrove.ca.gov prior to the meeting. A full agenda packet is available for public review at City Hall.

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL, LEMON GROVE HOUSING AUTHORITY, LEMON
GROVE SANITATION DISTRICT BOARD, LEMON GROVE ROADWAY LIGHTING DISTRICT
BOARD, AND LEMON GROVE SUCCESSOR AGENCY
December 2, 2014**

Call to Order

Members present: Mary Sessom, George Gastil, Jerry Jones, and Racquel Vasquez.

Members absent: Howard Cook.

City Staff present: Graham Mitchell, City Manager; Lt. Brock, Sheriff's Department; Carol Dick, Development Services Director; Leon Firsht, City Engineer; Susan Garcia, City Clerk; James P. Lough, City Attorney; Mike James, Public Works Director; Rick Sitta, Fire Chief; Tim Smith, Deputy Fire Chief; and Cathleen Till, Finance Director.

Presentation

Mayor Pro Tem Jones presented certificates of recognition to Charley's Famous Hamburgers, Coop's West Texas BBQ, First Chinese Express, Grove Grinder, Herrera's Mexican & Seafood, King Burrito, Lido's Italian Foods, Los Rios Mexican & Seafood, Nando's Taco Shop, and Rosarito's Mexican Food #7 for their participation in the *Lemon Grove Healthy Eating Active Living (HEAL) Zone* by adding healthy kids menus and healthy adult menu options.

Public Comment

Helen Ofield, Lemon Grove Historical Society, reported that in Sacramento on November 20th the Lemon Grove History Mural received a Governor's Historic Preservation Award for 2014. She thanked the City Council for their support.

1. Consent Calendar

A. Approval of City Council Minutes

November 18, 2014 Regular Meeting

B. Ratification of Payment Demands

C. Waive Full Text Reading of All Ordinances and Resolutions on the Agenda

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Gastil, to approve the Consent Calendar passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Vasquez

Absent: Cook

2. Ordinance 425 – Approval of Zoning Amendment ZA14-001 Amending the Zoning District from General Commercial (GC) to Heavy Commercial (HC) for 6969, 6975, and 7001 North Avenue

On November 18, 2014, the City Council introduced Ordinance No. 425, an ordinance amending the Zoning District from General Commercial to Heavy Commercial for the properties located at 6969, 6975, and 7001 North Avenue.

The City Council also adopted a Resolution approving General Plan Amendment GPA14-003 which amended the General Plan Land Use Designation from Retail Commercial to General Business for 6969 and 6975 North Avenue. The property at 7001 North Avenue will remain within the Public/Institutional Land Use Designation.

Public Speaker(s)

There were no requests from the public to speak.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Vasquez, to adopt the ordinance passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Vasquez

Absent: Cook

Ordinance No. 425: An Ordinance of the City Council of the City of Lemon Grove, California Approving Zoning Amendment ZA14-001 Amending the Zoning District from General Commercial (GC) to Heavy Commercial (HC) For 6969, 6975, and 7001 North Avenue, Lemon Grove, California

3. Economic Development Update

Graham Mitchell reported that on November 5, 2013, the City Council received a report outlining six economic development strategies to implement in the City. On December 17, 2013, the City Council approved the Commercial Real Broker Incentive Program. Since that time, staff has marketed the program to commercial property owners in Lemon Grove and local commercial brokers that provide broker services in and around Lemon Grove.

In July 2014, staff published and emailed the "Grove Business Gazette" to real estate brokers. The two-page newsletter, tailored to the real estate broker community, addressed three topics:

Recent Business Activity and Transactions,
Lemon Grove—Best Business Climate!, and
General City Update.

Although the City no longer has redevelopment financing opportunities, staff reached out to property owners on the south side of Broadway offering to draft a Request for Proposals to explore development opportunities. There was moderate success with this outreach effort with interest expressed in pursuing this option. Over the next few months, staff will work to identify which property owners have an interest in moving forward. Also, the City was approached by several property owners on the north side of Broadway, interested in staff's assistance in developing a RFP for development.

Public Speaker(s)

There were no requests from the public to speak.

4. Ordinance No. 426 – Zoning Code Use Interpretations, Marijuana Dispensaries and Collectives Not Permitted Use

On November 18, 2014, the City Council introduced Ordinance No. 426. The ordinance amends two sections of the Lemon Grove Municipal Code:

- 1) Under 17.12.070, it adds a subsection (C) that establishes that medical marijuana collectives/dispensaries are not and have never been allowed as a permitted or conditional use in any zone in the City.
- 2) Under 17.12.010(F), it adds a procedure to allow the City Council to make its own zoning interpretations.

Public Speaker(s)

Lorenzo Higley expressed appreciation for the City's ongoing efforts to protect the health of the Lemon Grove citizens.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Vasquez, to adopt the ordinance passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Vasquez
Absent: Cook

Ordinance No. 426: An Ordinance of the City Council of the City of Lemon Grove, California Amending Sections 17.12.010 and 17.12.070 of the Lemon Grove Municipal Code to Add a City Council Interpretation Procedure and to Recognize that Marijuana Collectives or Dispensaries Are Not a Permitted Use in Any Zone

5. Local Agency Improvement Fee Report (Fiscal Year 2013-2014) as Required by California Government Code Section 66006

Graham Mitchell stated that California Government Code Section 66006 requires public agencies that collect "improvement fees" to prepare and make public an annual report regarding those fees. The City collects two fees that fall under the category of "improvement fees" as defined by the Government Code—the Parkland Dedication Ordinance In-Lieu Fee and the Transportation Uniform Mitigation Fee Program.

Government Code 66006 specifies that the improvement fee report include eight reporting components:

- o Description of Fee/Fund,
- o Fee Structure per Dwelling Unit,
- o Beginning Balance,
- o Collection and Interest,
- o Expenditure,
- o Expected Date of Expenditure,
- o Interfund Transfer/Loans, and
- o Refunds.

Public Speaker(s)

There were no requests from the public to speak.

6. November 4, 2014 General Municipal Election Certified Results

Susan Garcia reported that on November 4, 2014, the City conducted a general municipal election for the purpose of electing two members of the City Council for four-year terms.

The official canvass was certified by the San Diego County Registrar of Voters on December 2, 2014. The certified canvass declares that Jennifer Mendoza and Jerry Jones were elected as members of the City Council.

Public Speaker(s)

There were no requests from the public to speak.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Vasquez, to adopt the resolution passed, by the following vote:

Ayes: Sessom, Gastil, Jones, Vasquez

Absent: Cook

Resolution No. 2014 – 3294: Resolution of the City Council of the City of Lemon Grove, California, Reciting the Fact of the General Municipal Election Conducted on November 4, 2014, and Declaring the Results

City Council Oral Comments and Reports on Meetings Attended at the Expense of the City. (GC 53232.3 (d))

Councilmember Vasquez attended the City-County reinvestment task force meeting, the graduation for the Lemon Grove Resident Leader Academy, Thrive Lemon Grove, and a first time home buyer's event.

Councilmember Gastil attended a MTS meeting in November.

Mayor Sessom reported on recent SANDAG and Airport Authority meetings and attended the ceremony in Sacramento where the Lemon Grove History Mural received a Governor's Historic Preservation Award for 2014.

Adjournment

There being no further business to come before the City Council, Housing Authority, Sanitation District Board, Lemon Grove Roadway Lighting District Board, and the Lemon Grove Successor Agency the meeting was adjourned at 7:10 p.m.



Susan Garcia, City Clerk

City of Lemon Grove Demands Summary

Approved as Submitted:

Cathleen Till, Finance Director

For Council Meeting: 12/16/14

ACH/AP Checks 11/20/14-12/04/14

1,282,324.08

Payroll - 11/25/14

119,327.77

Total Demands

1,401,651.85

CHECK NO	INVOICE NO	VENDOR NAME	CHECK DATE	Description	INVOICE AMOUNT	CHECK AMOUNT
ACH	1000117816	City of San Diego	11/20/2014	Metro Sewer System FY15 - 2nd Qtr	577,627.00	577,627.00
ACH	38781803	WEX Wright Express Fleet Serv	11/26/2014	Fuel-Fire Dept. - Oct'14	2,098.58	2,098.58
ACH	Nov25 14	Pitney Bowes Inc.	11/26/2014	Postage Usage 11/25/14	250.00	250.00
ACH	Nov25 14	Employment Development Dept.	11/28/2014	State Taxes	6,012.26	6,012.26
ACH	Nov25 14	US Treasury	12/01/2014	Federal Taxes	22,893.42	22,893.42
ACH	Dec 14	Pers Health	12/01/2014	Health Insurance - Dec'14	45,544.44	45,544.44
ACH	Oct15-Nov11	Ca Public Empl Retirement System	12/02/2014	Pers Retirement 10/15/14-11/11/14	98,213.85	98,213.85
ACH	Nov 14	Power Pay Biz	12/02/2014	Online Credit Card Processing Fee - Nov'14	77.17	77.17
ACH	Nov 14	Authorize.Net	12/02/2014	Merchant Fees - Nov'14	45.60	45.60
ACH	Sep17-Oct14	Calpers Supplemental Income 457 Plan	12/03/2014	457 Deferred Compensation Plan 9/17/14-10/14/14	16,843.70	16,843.70
ACH	Nov 14	Colonial Life	12/03/2014	Optional Insurance - Nov'14	970.42	970.42
ACH	Dec 14	Aflac	12/04/2014	Aflac Insurance - Dec'14	451.84	451.84
ACH	Oct 14	SD County Sheriff's Department	12/04/2014	Law Enforcement Services - Oct'14	401,052.29	401,052.29
3043	Banales	Banales, Diana	11/25/2014	Refund/Banales,Diana/Deposit Rec Ctr/11-8/14	200.00	200.00
3044	Nov5 14	Berk, Chris	11/25/2014	Photo Booth for Bonfire 5-9pm 12/5/14	800.00	800.00
3045	Nov5 14	Burke, Patrick	11/25/2014	Band for Bonfire - Barncats 5-9pm 12/5/14	1,000.00	1,000.00
3046	Castrejon	Castrejon, Carlos	11/25/2014	Refund/Castrejon,Carlos/Deposit LBH/11-15-14	300.00	300.00
3047	152-26 152-27	Circulate San Diego	11/25/2014	Safe Routes to School: LG Kids Walk 9/1/14-9/30/14 Safe Routes to School: LG Kids Walk 10/1/14-10/31/14	14,106.14 13,463.23	27,569.37
3048	2140 2141	Clark Telecom & Electric Inc.	11/25/2014	Street Light Repairs @ Dain Dr & Ildica St- Oct'14 Street Light Maintenance- Oct'14	76.28 137.33	213.61
3049	Nov5 14	Climb-It	11/25/2014	Rock Climbing Wall for Bonfire 5-9pm 12/5/14	700.00	700.00
3050	SD10025 FY15 SD10199 FY15	County of San Diego	11/25/2014	Mosquito & Vector Disease Control Assessment #SD10025 Mosquito & Vector Disease Control Assessment #SD10199	92.32 127.46	219.78
3051	Denslow	Denslow, Hazel	11/25/2014	Refund/Denslow,Hazel/Deposit Rec Ctr/11-9/14	200.00	200.00
3052	11/17-20/14	Esgil Corporation	11/25/2014	75% Building Fees 11/17/14-11/20/14	7,975.99	7,975.99
3053	Nov18 14	Game Truck South San Diego	11/25/2014	Video Game Truck Rental for Bonfire 5-9pm 12/5/14	506.00	506.00
3054	Nov5 14	Julie's Party People	11/25/2014	Face Painting & Balloons for Bonfire 5-9pm 12/5/14	400.00	400.00
3055	07-1859	Lemon Grove School District	11/25/2014	Fuel Services-PW: Oct'14	2,868.31	2,868.31
3056	Nov5 14	Pinata World Party Rentals	11/25/2014	Bonfire Equip- Rntl - Tables,Chairs,Canopy,2 Bounce Houses	603.00	603.00
3057	Salazar	Salazar, David	11/25/2014	Refund/Salazar,David/Plan Check Fee Pd Twice/B14-332	593.73	593.73

3058		SC Services Inc.	11/25/2014	**Void**		*
3059	Nov5 14	Sioux Corporation	11/25/2014	Hayrides for Bonfire 5-9pm 12/5/14	1,150.00	1,150.00
3060	WD-0104385	State Water Resources Control Board	11/25/2014	Annual Permit Fees - Waste Discharge Requirement 7/1/14-6/30/15	2,088.00	2,088.00
3061	Sep 14 Oct 14 Nov 14	Sun Life Financial	11/25/2014	Life Insurance Premium - Sep'14 Life Insurance Premium - Oct'14 Life Insurance Premium - Nov'14	115.92 115.92 115.92	347.76
3062	00028872	The East County Californian	11/25/2014	Public Hearing Notice-Planning Commission & Council 10/2/14	157.50	157.50
3063	Stmt 10/22/14	U.S. Bank Corporate Payment Systems	11/25/2014	Fuel Office Supplies - PW Misc. Shop Supplies Chipper Repairs Plumbing Supplies Tire Repair Plugs/Reamer Plugger Kit Concrete Mix/Cement Block-Station 10 Station Supplies Batteries, Water Dish Soap Notary Training - Cappiello Refreshments - Focus Group Meeting ECEDC-31th Anniversary Celebration - Vasquez, Gastil Union Tribune Subscription AA/AAA Batteries Badge Office Supplies Planning for Sign Code Success Workshop - Devries Hotel for Tristate Seminar - Adams, Wilkins Notary Training - Boyce MMASC 2014 Annual Conference Registration - James Facilities Supplies CLG Oval Stickers I Love Lemon Grove Buttons Eco Bags & Mens Headcovers Kidcheck Monthly Fee Daycamp Supplies Dog Lic - Testing Module RFP Ad for IT Services Office Supplies-City Hall	73.26 208.09 396.44 80.00 13.21 14.02 84.06 198.72 39.90 9.69 132.00 51.83 105.48 30.95 34.51 67.90 308.58 25.00 712.32 498.53 340.00 225.00 299.95 197.20 447.20 59.99 125.71 35.00 50.00 170.37	5,034.91
3064	601	SC Services Inc.	11/25/2014	Asphalt Milling - Glebe St Resurfacing CUPCCA 2014-19	9,205.00	9,205.00
3065	0244360	SCS Engineers	11/25/2014	Prof Svc: Monitoring Well Installation CLG Main Sts - Oct'14	1,046.75	1,046.75
3066	Oct23 14	Helix Water District	12/02/2014	Water Services: 2497 Gold Lake Rd 8/25/14-10/23/14	202.00	202.00
3067	B7953	A-Pot Rentals	12/03/2014	Portable Restroom Rental 11/9/14-12/8/14	132.20	132.20
3068	10531-1	All Access Rentals	12/03/2014	Boom Lift Rental	398.85	398.85
3069	1807923	American Fence Company Inc.	12/03/2014	Transfer of Temporary Fence - North Ave & Olive	840.00	840.00
3070	55337	Anthem Blue Cross EAP	12/03/2014	Employee Assistance Program - Dec'14	165.00	165.00
3071	0066353	Art's Lawnmower	12/03/2014	4" Head Trimmer	50.71	50.71
3072	5656593342 5656607080	AutoZone, Inc.	12/03/2014	18" Wiper Blades, Heavy Duty Toggle Stop/Tail/Turn Light	18.64 9.71	28.35
3073	582265-9 582886-9	BJ's Rentals	12/03/2014	Equipment Rental - Portable Generator, Airless Sprayer Propane	120.00 6.24	126.24
3074	373507	Brody Chemical Comp., Inc.	12/03/2014	Asphalt Release	339.02	339.02
3075	11741	California Diesel Compliance, Inc.	12/03/2014	Smoke Opacity Test - E10 ,E310,LGPW24,LGPW29	300.00	300.00
3076	999826	Cannon Pacific Services Inc.	12/03/2014	Street Sweeping - Glebe bet. San Miguel & Mt Vernon	210.00	210.00

3077	0108825-IN	Continental Western Transportation Co	12/03/2014	Furnish, Deliver & Apply Tack Coat - Glebe Rd & San Miguel	2,587.40	2,587.40
3078	11/19/2014	Cox Communications	12/03/2014	Phone Service 2873 Skyline 11/19/14-12/18/14	207.30	207.30
3079	12059	Custom Auto Wrap Inc.	12/03/2014	Bonfire Banner Changes	189.00	189.00
3080	011103	Discount Specialty Chemical	12/03/2014	RTV Clear Silicone for Manhole Cover	172.45	172.45
3081	28303	Dokken Engineering	12/03/2014	Sewer Main Rehab Project - Sep1,2014 to Oct31,2014	1,705.79	1,705.79
3082	11/24-26/14	Esgil Corporation	12/03/2014	75% Building Fees 11/24/14-11/26/14	1,332.11	1,332.11
3083	208457	Evan's Tire & Truck Service Center	12/03/2014	'00 Ford Ranger Repairs: Oxygen Sensor, Fuel System	518.45	518.45
3084	AR004969	Grossmont Union HS District	12/03/2014	Bonfire Flyers & Posters	124.50	124.50
3085	0023042-IN	Hinderliter De Llamas & Associates	12/03/2014	Sales Tax Audit Services - Sales Qtr 2 2014	921.97	921.97
3086	00026891 00027084	Hudson Safe-T- Lite Rentals	12/03/2014	Handicap Entrance Signs Senior Parking Signs	54.50 223.45	277.95
3087	12/1/2014	Hueppchen, Margaret K.	12/03/2014	Claim Reimb.- 8220 LG Way/Sewer Main Backup	708.00	708.00
3088	21355-1 21355-2	Ink Electric, Inc.	12/03/2014	Pole Lights Repair - Burnt Breaker Contract Billing - Pole Lights	153.74 650.00	803.74
3089	70237276	John Deere Landscapes, Inc.	12/03/2014	Playground Mulch	960.12	960.12
3090	11/5/2014	Lemon Grove Historical Society	12/03/2014	Lee House & Parsonage Museum Opening Exp- Bonfire	150.00	150.00
3091	07-1847	Lemon Grove School District	12/03/2014	Softball Water Usage 7/1/14-8/31/14	3,060.71	3,060.71
3092	12/2/2014	Macias, Vivian	12/03/2014	Reimb: Notary Filing Fee & Recording Fee for Bond	57.00	57.00
3093	Nov12 14 Nov14 14 Nov24 14	Municipal Auditing Services, LLC	12/03/2014	Business License Audit Svc 11/12/14 Business License Audit Svc 11/14/14 Business License Audit Svc 11/24/14	736.40 232.80 341.60	1,310.80
3094	2014-387	Quality Code Publishing LLC	12/03/2014	Internet Website Updating	286.16	286.16
3095	3719	RapidScale Inc.	12/03/2014	Virtual Hosting 11/30/14	1,567.23	1,567.23
3096	331144-00/01	RJ Safety Co Inc.	12/03/2014	Nitrile Gloves, Respirators	419.79	419.79
3097	604	SC Services Inc.	12/03/2014	Glebe Rd Root Removal, Sidewalk, Driveway Repair & Curb Ramp Improvement	17,240.00	17,240.00
3098	11/19/2014 11/19/2014 11/19/2014	SDG&E	12/03/2014	3225 Olive- 10/20/14-11/19/14 3500 1/2 Main- 10/20/14-11/19/14 8119 Broadway- 10/20/14-11/19/14	74.39 293.80 70.70	438.89
3099	5610002859 5620000887	Siemens Industry Inc.	12/03/2014	Traffic Signal Maintenance- Oct'14 Traffic Response Call Outs - Oct'14	1,222.00 2,898.11	4,120.11
3100	11/15/2014	Smith, Tim	12/03/2014	Uniform Allowance - Smith 11/15/14	488.83	488.83
3101	5194 5216 5260 5313	Spring Valley Lawn Mower Shop	12/03/2014	Chain for Chainsaw Handblower Tune Up Chain Replacement on Echo Chainsaw Concrete Grinder Tune Up	62.64 93.49 37.14 89.87	283.14
3102	666045 666698 667544 670005 671427	Superior Ready Mix Concrete LP	12/03/2014	Asphalt - Palm @ Golden & Skyline Asphalt - Palm & Skyline Asphalt - Longdale & Myra Asphalt - Main St Asphalt -Main St	115.02 55.60 54.00 64.80 76.68	366.10
3103	2393	T-Man Traffic Supply	12/03/2014	Traffic Paint Supplies	843.55	843.55
3104	1120140369	Underground Service Alert	12/03/2014	New Ticket Charges - Nov'14	63.00	63.00
3105	266132554	US Bank Equipment Finance	12/03/2014	Defibrillator Lease- Contract Payment 12/11/14	1,663.30	1,663.30

3106	Nov25 14	Vantage Point Transfer Agents-457	12/03/2014	ICMA Deferred Compensation Pay Period Ending 11/25/14	280.77	280.77
3107	9735356390 9735357130	Verizon Wireless	12/03/2014	City Phone Charges- 10/13/14-11/12/14 Mobile Broadband Access 10/13/14-11/12/14	750.76 76.02	826.78
3108	70583853 70583854 70595145	Vulcan Materials	12/03/2014	Asphalt Asphalt Asphalt	86.40 85.57 74.52	246.49
3109	PDP140-0002	County of San Diego	12/04/2014	CityMark Project/PDP140-0002/TM0060	50.00	50.00
					1,282,324.08	1,282,324.08

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date December 16, 2014
Dept. City Manager's Office

Item Title: Local Appointments List Update

Staff Contact: Susan Garcia, City Clerk

Recommendation:

Accept and file the revised Local Appointments List.

Item Summary:

California Government Code 54970 requires a public agency to annually post its Local Appointments List. The list identifies all current members of commissions and committees and the dates of their terms of office. The Local Appointments List will be posted on the City's website and provided to the Lemon Grove Library.

Fiscal Impact:

None.

Environmental Review:

☒ Not subject to review

☐ Categorical Exemption, Section

☐ Negative Declaration

☐ Mitigated Negative Declaration

Public Information:

☒ None

☐ Newsletter article

☐ Notice to property owners within 300 ft.

☐ Notice published in local newspaper

☐ Neighborhood meeting

Attachments:

A. Local Appointments List

**City of Lemon Grove
Local Appointments List**

In compliance with the requirements of Government Code 54970, the following Local Appointments List is posted on an annual basis. The List presents all current members of City Commissions and Committees and the dates of their terms of office, with the exception of Administrative Citation Hearing Officers, who are not required to reside in the City.

Planning Commission

Planning Commission meetings are held on the fourth Monday of every month at 6:30 p.m. at the Lemon Grove Community Center at 3146 School Lane. Special meetings may be called, and the regular schedule may be adjusted to resolve conflicts with holidays. The Planning Commission consists of five members appointed by the City Council to serve three-year terms.

<i>Name</i>	<i>Date Appointed</i>	<i>Present Term Expires</i>
Robert Bailey	09-20-2011	09-30-2017
Regina Caskey	10-01-2013	10-01-2016
Sean Cole	01-15-2013	09-30-2017
Susan Yepiz	04-01-2014	09-30-2016

Traffic Advisory Committee

Traffic Advisory meetings are held on the third Monday of odd-numbered months, *on an as needed basis*. The meetings are held at 6:00 p.m. at the Lemon Grove Fire Station, Emergency Operations Center, located at 7853 Central Avenue.

<i>Name</i>	<i>Date Appointed</i>	<i>No Set Term Length</i>
City Manager or designee	N/A	
Fire Department designee	N/A	
Sheriff's Department designee	N/A	
Lemon Grove School District designee	N/A	
East County Chamber of Commerce designee	N/A	
Vacant Community Representative		

Administrative Citation Hearing Officers

The City's Code Enforcement policy authorizes City staff to issue administrative citations for violations of the Municipal Code, and also provides for the appointment of up to six hearing officers to conduct appeal hearings for any citation issued. Hearing Officers are appointed by the City Council.

<i>Name</i>	<i>Date Appointed</i>	<i>Present Term Expires</i>
Anthony Jemison	07-18-2006	06-30-2016
Arturo Cervantes, Jr.	09-05-2006	06-30-2016

Oversight Board of the Lemon Grove Successor Agency

Pursuant to the implementation of Assembly Bill X1 26 (Blumenfield), the Lemon Grove Community Development Agency dissolved. State law prescribes that three of the seven members of the Oversight Board of the Lemon Grove Successor Agency are appointed by the Mayor—the other four members are appointed by the County of San Diego, Lemon Grove School District, the Grossmont-Cuyamaca Community College District, and the Grossmont Healthcare District. The meetings are held as needed in a public location within the City.

<i>Name</i>	<i>Date Appointed</i>	<i>No Set Term Length</i>
City Manager	04-11-2012	
Bob Bailey	04-11-2012	
Jerry Selby	04-11-2012	

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.E
Mtg. Date December 16, 2014
Dept. City Manager's Office

Item Title: Mayor Pro Tem Rotation

Staff Contact: Graham Mitchell, City Manager

Recommendation:

Adopt a resolution (**Attachment B**) confirming the rotation of Councilmember Racquel Vasquez to serve as the Mayor Pro Tem commencing December 16, 2014 through December 15, 2015 and establishing the Mayor Pro Tem rotation schedule for the subsequent two years.

Item Summary:

City of Lemon Grove Resolution No. 2649 (**Attachment C**), adopted on July 16, 2006, establishes the policy to determine the rotation of the Mayor Pro Tem position among the City Council. Based on the policy, it is Councilmember Racquel Vasquez's turn to rotate into the Mayor Pro Tem position.

The staff report (**Attachment A**) provides an analysis of how Resolution No. 2649 is applied and provides a schedule for the Mayor Pro Tem rotation for the next several years. The Mayor Pro Tem appointment and rotation schedule is presented in a resolution (**Attachment B**) for City Council consideration.

Fiscal Impact:

None.

Environmental Review:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Not subject to review
<input type="checkbox"/> Categorical Exemption, Section <u> </u> | <input type="checkbox"/> Negative Declaration
<input type="checkbox"/> Mitigated Negative Declaration |
|--|--|

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution
- C. Resolution 2649

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.E

Mtg. Date December 16, 2014

Item Title: Mayor Pro Tem Rotation

Staff Contact: Graham Mitchell, City Manager

Discussion:

Each year, the City rotates its Mayor Pro Tem designee (Resolution No. 2649, adopted on July 16, 2006, establishes the rotation policy—**Attachment C**). During election years, Government Code Section 36801 states that following the declaration of election results and the installation of elected officials, the City Council chooses one of its members to serve as Mayor Pro Tem. During non-election years, the Mayor Pro Tem rotation occurs one year following the previous year's rotation.

The City's Mayor Pro Tem rotation policy is based on the three principles outlined below:

1. The rotation should follow the pattern established from the previous six years,
2. The Mayor Pro Tem should serve for approximately a one-year period, and
3. In the event that two or more Councilmembers have not served as Mayor Pro Tem and have equal tenure in office, the one who received the most votes in the previous election should be placed higher on the rotation list.

The following City Councilmembers have rotated in the Mayor Pro Tem position in the following order for the past six years: Jerry Selby (2009), Jerry Jones (2010), Mary England (2011), George Gastil (2012), Howard Cook (2013), and Jerry Jones (2014).

Based on the principles outlined in Resolution No. 2649, the following shows the rotation of Mayor Pro Tem for the next three terms:

December 2014 – December 2015	Racquel Vasquez
December 2015 – December 2016	George Gastil
December 2016 – December 2017	Jennifer Mendoza

It is recommended that Councilmember Racquel Vasquez be appointed as the Mayor Pro Tem commencing on December 16, 2014 to serve in that position for the next year, followed by Councilmembers Gastil and Mendoza.

Conclusion:

Staff recommends that the City Council adopt the resolution (**Attachment B**) appointing Councilmember Racquel Vasquez as the Mayor Pro Tem from the period of December 16, 2014 through December 15, 2015 and confirm the rotation schedule for the subsequent two years.

RESOLUTION NO. 2014-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA
CONFIRMING THE ROTATION OF COUNCILMEMBER RACQUEL VASQUEZ TO SERVE AS
THE MAYOR PRO TEM FOR THE PERIOD OF DECEMBER 16, 2014 THROUGH
DECEMBER 15, 2015 AND ESTABLISHING THE MAYOR PRO TEM ROTATION SCHEDULE
FOR THE SUBSEQUENT TWO YEARS**

WHEREAS, Lemon Grove Municipal Code Section 2.14.080 establishes the position of Mayor Pro Tem; and

WHEREAS, Resolution 2649, adopted by the City Council on July 16, 2006, established a policy to determine the rotation of the Mayor Pro Tem among Councilmembers; and

WHEREAS, referring to the policy established by Resolution 2649, the City Council determines the rotation of the Mayor Pro Tem by following the rotation pattern established from previous years, considering that the Mayor Pro Tem should serve for approximately a period of one year, and in the event that two or more Councilmembers have not served as Mayor Pro Tem and have equal tenure in office, the one who received the most votes in the previous election should be placed higher on the rotation list; and

WHEREAS, referring to the policy established by Resolution 2649, after a municipal election, the City Council is to appoint its Mayor Pro Tem and confirm the rotation for the subsequent two years by resolution; and

WHEREAS, applying the policy established by Resolution 2649, Councilmember Racquel Vasquez would serve as Mayor Pro Tem for the period of December 16, 2014 through December 15, 2015, followed by Councilmember George Gastil, then by Councilmember Jennifer Mendoza in the subsequent two years.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Appoints Councilmember Racquel Vasquez as Mayor Pro Tem from December 16, 2014 through December 15, 2015; and
2. Confirms that Councilmember George Gastil will serve as Mayor Pro Tem for a one-year period following Councilmember Racquel Vasquez's term; and
3. Confirms that Councilmember Jennifer Mendoza will serve as Mayor Pro Tem for a one-year period following Councilmember George Gastil's term.

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Attachment C

RESOLUTION NO. 2649

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, TO ESTABLISH THE POLICY FOR THE ROTATION OF MAYOR PRO TEM

WHEREAS, Government Code Section 36801 requires that during the City Council meeting at which the declaration of the election results for a General Municipal Election are made and, following the installation of elected officials, choose one of its number as Mayor Pro Tem; and

WHEREAS, if the Mayor is absent or unable to act, the Mayor Pro Tem shall serve until the Mayor returns or is able to act and the Mayor Pro Tem has all of the powers and duties of the Mayor; and

WHEREAS, the City Council of the City of Lemon Grove, California, hereby establishes the following policy:

1. After the certification of each municipal election (or regularly scheduled election) and at the seating of a new Mayor Pro Tem, the City Council shall review the Mayor Pro Tem rotation list for the next two years.
2. The Mayor Pro Tem should serve on a rotating basis so that each councilmember serves one (1) year as Mayor Pro Tem during his/her four (4) year term.
3. In the event of an occurrence that creates a disruption in the regular rotation of the Mayor Pro Tem, the Council shall consider the following principals in developing the rotation list:
 - a. The rotation history of the previous six years,
 - b. The Mayor Pro Tem serves for approximately a one-year period, and
 - c. In the event that two or more Councilmembers have not served as Mayor Pro Tem and have equal tenure in office, the one who received the most votes in the previous election should be placed higher on the rotation list.
4. Appointment of new Mayor Pro Tem and the rotation list for the next two years shall be done by resolution.
5. The Mayor Pro Tem shall be sworn in prior to commencement of office.

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**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date December 16, 2014
Dept. Public Works

Item Title: Lemon Grove Farmers Market Agreement

Staff Contact: Mike James, Public Works Director

Recommendation:

Adopt a resolution (**Attachment B**) approving an agreement (**Attachment B – Exhibit 1**) with Kimberly Paris to manage a Lemon Grove Farmers Market at the Main Street Promenade.

Item Summary:

On November 4, 2014, the City Council received a report from City staff outlining a plan to implement a Farmers Market at the Main Street Promenade Park. During the meeting, the City Council heard public comment from Ms. Teresa Johnson (Owner of the Grove Pastry Shop) regarding the potential concerns the business community may have with a Farmers Market. Based on Ms. Johnson's concerns, the City Council requested that the businesses conduct a survey of the local business community to provide feedback on days and times for a Farmers Market.

On December 10, 2014 at 12:25 p.m., Ms. Mary England, President/Chief Executive Officer of the La Mesa Chamber of Commerce, delivered the Lemon Grove business community survey to City staff. That information will be provided to the City Council prior to the City Council meeting.

The purpose of this agenda item is to present an agreement to operate a Farmers Market at the Main Street Promenade Park. The agenda item will also allow for additional public comment, including the presentation of findings from the business community.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section _____ | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 2

Mtg. Date December 16, 2014

Item Title: Lemon Grove Farmers Market Agreement

Staff Contact: Mike James, Public Works Director

Background:

On November 4, 2014, the City Council received a report from City staff recommending a plan to implement a Lemon Grove Certified Farmers Market (Farmers Market) at the Main Street Promenade Park every Saturday from 9:00 a.m. to 2:00 p.m. During that meeting, the City Council received public comment from Ms. Teresa Johnson (owner of the Grove Pastry Shop) that requested the City Council consider another day and time of the week to implement a Farmers Market because Saturdays may negatively impact the Lemon Grove business community. In response to Ms. Johnson's request, the City Council asked her to conduct a survey of the Lemon Grove businesses in order to determine if there is support to have the Farmers Market on a different date and/or time.

As a reminder, the goal of the Farmers Market is to provide a positive activity in the downtown area, to enhance the experience of those visiting the City's downtown, and to attract shoppers to the City's downtown area. Staff recommends that the City Council consider multiple sources of feedback in making its decision of whether to move forward with a Farmers Market and which day/time best serves the entire Lemon Grove community. Staff suggests that input from residents, the business community, and the Farmer's Market manager be considered. The agenda item will allow the City Council to hear from the public and inquire of different stakeholders.

Assuming the City Council wishes to move forward with a Farmers Market, staff has prepared a resolution approving an agreement between the City and Ms. Kimberly Paris. Some key components of that agreement include:

- 1) The use of the promenade to host the market,
- 2) All vendors will be authorized to park in the vacant City owned lot located in on the north side of the 7700 block of North Avenue,
- 3) No public parking spaces will be reserved during the Markets hours of operation. However, the Lessee will create signs directing patrons to available public parking stalls at Lester Parking Lot, along Main Street south of Pacific Avenue, City Hall parking lot, and Civic Center parking lot,
- 4) Requires the City to open and not charge for the use of the restrooms at the Promenade during the Farmers Market hours of operation,
- 5) Requires the vendors to be screened and fully licensed, and
- 6) Identifies the responsibilities of the market manager.

Staff has left the day and times of the market blank until City Council feedback is provided.

Conclusion:

Staff recommends that the City Council adopts a resolution (**Attachment B**) approving an agreement (**Attachment B – Exhibit 1**) with Kimberly Paris to manage a Lemon Grove Farmers Market at the Main Street Promenade.

RESOLUTION NO. 2014 - _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING AN AGREEMENT WITH KIMBERLY PARIS TO MANAGE THE LEMON GROVE CERTIFIED FARMERS MARKET

WHEREAS, in September 2013, the City of Lemon Grove completed the construction of the Main Street Promenade Park (Promenade); and

WHEREAS, the Promenade is located south of the Citronica One building located at 7765 North Avenue; and

WHEREAS, in June 2014, staff searched for farmers market and outdoor retail vendors to partner with the City at the Promenade; and

WHEREAS, Kimberly Paris of Imperial Beach Certified Farmer's Market model was determined, by staff, to be the best fitting model for the Promenade location; and

WHEREAS, the Lemon Grove Certified Farmers Market (Market) will be held once per week, rain or shine; and

WHEREAS, the farmers market will benefit the local neighborhood because of the variety of goods available for purchase and will encourage a common recreational area; and

WHEREAS, the intent of the farmers market is to provide the community with a safe, family-friendly gathering place to go for fresh, local fruits and vegetables available and provide the opportunity for citizens to learn more about healthy eating; and

WHEREAS, the duties of Kimberly Paris, who will serve as the market manager, would include the opening and closing of the market, enforcement of all health and safety requirements, verification of vendor permits/certification, market cleanliness, supervision of any volunteers, traffic/parking, best management practices training to staff/volunteers/vendors, supervision of security patrol, and provision of customer services.; and

WHEREAS, the City of Lemon Grove has the discretion to cancel the Lemon Grove Farmers market in lieu of other schedule events or activities that may conflict with the operation of those events and the public's use of the park; and

WHEREAS, City staff has concluded that there are no foreseeable concerns that cannot be successfully mitigated without prior coordination and communication with the neighboring community.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Approves the agreement (**Exhibit 1**) with Kimberly Paris to manage the Lemon Grove Certified Farmers Market; and
2. Directs the City Manager or designee to execute and manage all related documentation.

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**SPECIAL EVENT AGREEMENT
BETWEEN
THE CITY OF LEMON GROVE
AND KIMBERLY PARIS
FOR USE OF THE
MAIN STREET PROMENADE PARK**

1. Basic Provisions.

1.1 Parties: This Lease ("Lease") is made by and between the City of Lemon Grove ("Lessor") and Kimberly Paris ("Lessee"), (collectively, the "Parties", or individually, "Party").

(a) Premises: The Main Street Promenade Park known as the Promenade located south of 7765 North Avenue, Lemon Grove, CA, 91945, as shown in *Attachment 1*. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have nonexclusive rights to use the parking space (as defined below) as hereinafter specified. The site map identifies the location that are herein collectively referred to as the "Premises."

(b) Vendor Parking: All vendors will be authorized to park in the vacant City owned lot located in on the north side of the 7700 block of North Avenue.

(c) Patron Parking: No public parking spaces will be reserved during the Markets hours of operation. However, the Lessee will create signs directing patrons to available public parking spaces at Lester Parking Lot, along Main Street south of Pacific Avenue, City Hall parking lot, and Civic Center parking lot.

(d) Vendors: All vendors as a part of this Lease will abide by the most current version of the Lemon Grove Farmers market Rules and Regulations (*Attachment 2*).

1.2 Term: The term will commence on the date the agreement is fully executed through June 30, 2015. Commencing on July 1, 2015, the term of the Lease shall be year-to-year, as mutually agreed to by both parties. There shall be no holdover tenancy and any extension shall be subject to a written agreement approved by both parties.

1.3 Rent and Deposit: \$0.00 per month ("Base Rent"),

(a) Initial Cleaning Deposit: \$200.00 is payable in the first month of occupation of the Premises.

1.4 Utilities and Premises Maintenance Costs. San Diego Gas & Electric, Helix Water District, and EDCO solid waste costs will be paid for by the Lessor.

(a) Lessee shall pay for all other utility and premises costs associated with the use of the Premises not identified in section 1.4.

(b) Each July 1st, costs for utilities and maintenance will be evaluated by the Lessor to determine if a future cost sharing agreement warrants inclusion into this Agreement.

1.5. Agreed Use: Lessee intends to use the Premises to operate a Lemon Grove Certified Farmers Market.

- (a) Any activity not listed as an agreed use, must be reviewed and approved in writing by the Lessor at least thirty (30) calendar days before its implementation.
- (b) The Lessee will be responsible for control and access to the Premises each _____ (day of the week) from _____ (start time) to _____ (end time), as well as no more than two hours before and after the event for set up and take down.
- (c) If other uses (e.g. special events, seminars, rallies) are requested by the Lessee for uses not identified in this paragraph, all requests will be made in writing by the Lessee at least thirty (30) days before the start of the requested use. The hourly rate for other uses will equal the hourly rate as stated in the City's Master Fee Schedule.

2. Premises.

- 2.1 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the Term of the agreed upon use, and upon all of the terms, covenants and conditions set forth in this Lease.
- 2.2 Lessee shall not assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment or other such foregoing transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or permit the use of the Premises by any persons other than Lessee and its employees, unless prior approval is received from the Lessor.
- 2.3 Lessor shall deliver the Premises to Lessee clean and free of debris on the Commencement Date and warrants that the existing electrical, plumbing, and lighting, shall be in good operating condition on said date. If a noncompliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such noncompliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be 30 days. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such noncompliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense.
- 2.4 Vehicle Parking. Lessee shall be entitled to use the number of parking spaces specified in Paragraph 1.1(b), designated from time to time for parking. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pickup trucks, herein called "Permitted Size Vehicles."

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the parking spaces.

2.5 Restrooms – Lessee may only use the restrooms located within the Premises as part of this agreement and subject to authorized use as stated in Paragraph 1.5.

3. Possession.

3.1 Lessee Compliance. Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance and secures a business license from the City of Lemon Grove. Pending delivery of such evidence of insurance and approved business license, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied, in Lessor's sole discretion.

4. Rent and Other Charges.

4.1 Rent Defined. There will be no rent required at the time of the Agreement's initial execution. July 1st of each year, the Lessor may review and evaluate the future need of a monthly rent amount.

5. Agreed Use.

The Premises shall be used and occupied only for said Agreed Use as defined in Paragraph 1.5 of this Lease. Furthermore, the premises will remain trash free and shall be swept, power washed, and/or cleaned regularly at the conclusion of each use by the Lessee.

6. Insurance Risks/Security

a. Indemnity.

Lessee shall indemnify and hold harmless the City and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct of the Lessee or its employees, agents, or others in connection with its use and occupation of the Premises under this Agreement, except only for those claims arising from the negligence or willful misconduct of the City, its officers, agents, or employees. Lessee's indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same to proceed to judgment or not. Lessee at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees. Lessor shall hold Lessee harmless from claims arising from Lessor's sole active negligence or sole willful misconduct or that of its officers, agents or employees.

b. Insurance.

1. Lessee shall, throughout the duration of this Agreement, maintain comprehensive general liability or commercial general liability insurance and property damage insurance covering all operations and activities of Lessee, its agents and employees, performed in connection with this Agreement including but not limited to, its personal property, the interior improvements of the PREMISES and automobile coverage.
2. Lessee shall maintain the following minimum limits:

General Liability

Combined Single Limit

Per Occurrence \$1,000,000

General Aggregate \$2,000,000

Lessee shall obtain and maintain fire, extended coverage, and vandalism insurance policy(s) on all insurable property on the Premises, including the Premises.

3. All insurance companies affording coverage to the Lessee shall be required to add the City of Lemon Grove as an "additional insured" under the insurance policy(s) required in accordance with this Agreement.
4. All insurance companies affording coverage to the Lessee shall be insurance organizations authorized by the Insurance Commissioner of the State Department of Insurance to transact the business of insurance in the State of California.
5. All insurance companies affording coverage shall provide a thirty (30) day written notice to the City of Lemon Grove should the policy be canceled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Cancellation of any coverage required by the terms hereof shall be grounds for termination of this Lease pursuant to the provisions of section 6.10 hereof.
6. Lessee shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, and endorsements thereon, in a form satisfactory to the City Attorney concurrently with the submittal of this Agreement.
7. Lessee shall provide a substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date. Failure by the Lessee to provide such a substitution and extend the policy expiration date shall be considered a default by Lessee and subject the Lessee to a termination of this Agreement.
8. Maintenance of insurance by the Lessee as specified in this Agreement shall in no way be interpreted as relieving the Lessee of any responsibility

whatever and the Lessee may carry, at its own expense, such additional insurance as it deems necessary.

9. If Lessee fails or refuses to procure and maintain the required insurance, or fails to provide the proof of coverage, Lessor, has the right but not the obligation, to obtain the insurance. Lessee shall reimburse Lessor for the premiums paid with interest at the maximum allowable legal rate then in effect in California. Lessor shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s) and rate of interest. Said reimbursement and interest shall be paid by Lessee on the first (1st) day of the month following the notice of Payment by the Lessor. Notwithstanding the preceding provisions of this Subsection, any failure or refusal by Lessee to procure or maintain insurance as required in this Agreement, or failure to provide proof of Insurance, shall be deemed a default under this Agreement.
10. Lessee may choose to satisfy the insurance obligations identified in this Lease through a self-insurance program or a self-insurance joint powers agency or agreement.

7. Attorney's Fees.

If any Party brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The "Prevailing Party" shall include, without limitation, a Party who substantially obtains or defeats the relief sought as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

8. Dispute Resolution.

- a. Mediation: Lessor, Lessee, and Broker(s) agree to mediate any dispute or claim arising between them out of this agreement or any resulting transaction, before resorting to arbitration or court action. Paragraphs (2) and (3) below apply whether or not the arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover any attorney fees, even if they would otherwise be available to that party in any such action. This mediation provision applies whether or not the arbitration provision is initiated.

b. Arbitration Disputes:

- i. Lessee and Lessor agree that any dispute or claim in Law or equity arising between them out of this agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs (2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration conducted in accordance with Part III; Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with Code of Civil Procedure 1283.05.
- ii. EXCLUSIONS FROM MEDIATION AND ARBITRATION: The following matters are excluded from mediation and arbitration: (i) a judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code 2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court; and (v) an action for bodily injury or wrongful death or any right of action to which Code of Civil Procedure 337.1 or 337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.
- iii. Brokers: Lessor and Lessee agree to mediate and arbitrate disputes or claims involving either or both brokers, provided either or both brokers have agreed to such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to brokers. Any election by either or both brokers to participate in mediation or arbitration shall not result in brokers being deemed parties to the agreement.

NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

Initials: Lessor: _____ Lessee: _____

9. Premises Condition.

Lessor, at the Lessor's sole cost and expense, shall provide the Premises in as-is condition.

10. Scheduling.

- a. Conflicting Schedules. The Lessee has all priority rights to use the Premises and will make reasonable accommodations if a scheduling conflict occurs.

11. Use of City Equipment.

The following City owned items may be used by the Lessee during the schedule hours of occupation.

- a. Public Restrooms
- b. Open Concrete Park Space

If used, the Lessee acknowledges that it is responsible for maintaining, repairing, and replacing said items at its cost within 14 days of discovering the need to do so.

12. Capital Improvements.

During the entire duration of this agreement, the Lessor will be responsible for major capital improvement replacement and major maintenance activities. Examples may include playground equipment repairs, concrete removal and repairs. If specific actions that cause the required improvements are directly associated with negligent acts of the Lessee, the Lessee will then be responsible for the cost to repair and/or replace the capital projects.

13. Termination.

Either party may terminate this lease upon sixty (60) days written notice to the other party pursuant to Section 15 below.

- a. After a termination request has been accepted, a site walk will be performed by both Parties to determine if the facility is in the same condition as it was in the initial occupation.
- b. Any costs to repair or replace the premises will be paid for with the initial deposit funds.
- c. Should there not be any repair or replacement costs, the full deposit will be returned to the Lessee within thirty (30) days of the final date of occupation.

14. Notices.

All notices, consents, demands and other communications from one party to the other given pursuant to the terms of this Lease or under the laws of the State of California, including but not limited to notice under the provisions of Section 1161 of the California Code of Civil Procedure and Section 1946 of the California Civil Code, shall be in writing and shall be deemed to have been fully given when deposited in the United States mail, certified or registered, postage

prepaid, and addressed to Lessee or Lessor at the addresses respectively specified below or to such other place as Lessee or Lessor may from time to time designate by a written notice to the other; or, in the case of Lessee, delivered to Lessee at the Premises or at any place where Lessee or any agent or employee of Lessee may be found if sent subsequent to Lessee's vacating, deserting, abandoning or surrendering of the Premises. Lessee hereby agrees that service of notice in accordance with the terms of this Lease shall be in lieu of the methods of service specified in Section 1162 of the California Code of Civil Procedure. The provisions of subdivision (a) of Section 1013 of the California Code of Civil Procedure, extending the time within which a right may be exercised or an act may be done, shall not apply to a notice given pursuant to this Lease.

The contact information for Lessor is:

City of Lemon Grove
3232 Main Street
Lemon Grove, California 91945
Attention: Graham Mitchell, City Manager
Email: gmitchell@lemongrove.ca.gov
Phone: 619-825-3800

The contact information for Lessee is:

Lemon Grove Certified Farmers Market
Address
City, State Zip
Attention: Kimberly Paris, Manager
Email:
Phone:

15. Waiver of Relocation Benefits.

Lessee understands it may be entitled to relocation benefits pursuant to Government Code section 7260 et seq. In consideration for the terms of this Lease, Lessee knowingly waives any right to said relocation benefits pursuant to Civil Code section 3513.

Date: _____
By Lessor: City of Lemon Grove
Printed Name: Graham Mitchell
Title: City Manager

Date: _____
By Lessee: Lemon Grove Farmers Market
Printed Name: Kimberly Paris
Title: Manager

Signature: _____

Signature: _____

Attachment 1
Site Plan – Main Street Promenade Park

Lemon Grove Farmers Market Site Map



Attachment 2 Rules and Regulations

Lemon Grove Certified Farmers' Market

South of 7401 North Avenue, Lemon Grove, CA 91945 // 619.647.6903 Phone
619.934.1009 Fax // Website: www.lgcfm.com (Site In-Progress) // e-mail: kim@helpmejohnny.com

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MARKET RULES & REGULATIONS

Published November 2014

Last Revised October 2014

Market Time

Open for Business 12:00 p.m. – 7:00 p.m. Every _____

Market Description: The Lemon Grove Certified Farmers Market (Market). The Market currently has a Special Event Use Permit with the City of Lemon Grove for only 85 booth spaces. The Market will offer a variety of food from around the world, fresh produce brought from California farms, unique arts and crafts from local artists and a variety of entertainment to our community making every effort to avoid competition with our local business community. To do this the duplication of hand-made product offerings at our Market will be avoided. Each space will be uniquely different from the other where possible. No "Fair Trade**" vending will be offered in the Market so that our patrons are assured that the products consumed and/or purchased at the Market are produced by our local artists and our unique vendor choices. The Lemon Grove Certified Farmers Market will be known for its originality, community support and wonderful atmosphere.

Market Location: South of Citronica Plaza 7401 North Avenue, Lemon Grove, CA 91945. The Lemon Grove Certified Farmers' Market (Market) shall implement and enforce all of the following rules and regulations in a fair and equitable manner. Any producer or vendor admitted to the Market must follow the requirements and rules herein:

1. Vendor Setup Time:

Vendor set up time begins at 10:30 a.m. All vendor vehicles must be unloaded and off the plaza no later than 11:30 p.m. Vehicles may not be on the Plaza during the Market's open hours. It is preferred that all vendors be set up ½ hour before the Market begins at 12:00 p.m. Any vendor who is regularly late setting up will be asked to leave the Market and a substitute vendor may be put in their place through the "Right of Appeal" process or until this process expires whichever occurs first.

2. Vendor Breakdown Time:

Please maintain an "open for business" atmosphere during the entire Market. We realize that there will be good days when a vendor may sell-out of their product, nonetheless, everyone is expected to keep their vendor booth space open and operational. When vendors randomly break down their booths, customers get the false impression that the Market is closing. Closing affects the opportunity for sales other vendors might have. We further recognize that emergent situations occur and there will be times when a person will need to leave early. Efforts should be made to find replacement personnel for your Market shift. Please do not break down your booth early without prior written approval. Prior written approval can be obtained by e-mail or letter to the Market Manager before the start of the Market. In an extreme emergency a vendor can obtain an excused absence by calling our office or the Market Manager at 619.647.6903.

3. Vendor Trucks and Vehicles on Plaza:

All vendors utilizing trucks or vehicles on plaza **MUST** have protective drip pans beneath their truck. **NO EXCEPTIONS!** A vehicle is allowed on the plaza to unload (NOT SET-UP) and load (NOT BREAKDOWN) only.

MARKET RULES & REGULATIONS

Vehicle on plaza for set-up: A vendor may set down drop cloth, pop-up canopy, and then quickly unload all remaining equipment only.

Vehicle on plaza for break-down: A vendor can bring their vehicle on to the plaza only AFTER everything has been packed up and all equipment is ready to be directly loaded into the vehicle. The MAXIMUM time allowed for a vehicle to be on the plaza for unloading or loading is 15 minutes. ALL Vehicles must be off of the plaza during Market hours.

4. Fees:

Payment along with any paperwork required must be turned in to Market Manager on site 30 minutes before the close of the Market. Failure to accurately disclose gross daily profits and/or failure to pay for booth space is grounds for immediate dismissal from the Market. Any vendor caught cheating on their vendor payment or load sheets will be terminated from the Market.

5. Permits and Sales:

Farmers/Vendors shall have all appropriate certificates, business licenses, proof of liability insurance and permits. Sellers must conspicuously post all required permits, licenses, and certificates per City, County and State regulations, prior to commencing sales. **Provide copies to Market Management.**

The Market Manager will ensure that each Vendor has the required permits and licenses as necessary prior to participation in the Market, however it is the responsibility of each vendor/farmer to maintain current documents as indicated and to keep/provide current copies to Market Management with 10 days of renewal. Failure to maintain current documents could result in fines up to \$500.00, suspension up to 6 months or termination from the Market:

- City of Lemon Grove Business License (www.lemongrove.ca.gov)
- Business Tax Certificate (www.ftb.ca.gov)
(Also www.irs.gov/businesses/small)
- Seller's Permit from the State Board of Equalization (www.boe.ca.gov) with the location Citronica Plaza, 7401 North Avenue, Lemon Grove, CA 91945
- Proof of Insurance with "IB Beautiful, Inc., the Lemon Grove Certified Farmers Market and the City of Lemon Grove named as additionally insured."
- Temporary Food Facility Permit (if applicable)
http://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/cep/tempevent_vendorapp_fp.pdf
- Health Certificate (if applicable)
<http://www.sdcountry.ca.gov/deh/food/tempevents.html>
County Operations Center - 5500 Overland Ave, Suite 170. San Diego, CA 92123
<http://www.sandiegocountv.gov/content/dam/sdc/deh/fhd/food/pdf/farmersmarkets.pdf>
- Agricultural Permit (if applicable)
DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURE
9325 Hazard Way, Suite 100, San Diego, CA 92123
Phone: (858) 694-2739 FAX (858) 467-9697 <http://www.sdcawm.org>

MARKET RULES & REGULATIONS

6. Products/Merchandise:

Farmers/Vendors may not sell any item not listed on their certified producer certificate, load sheet or application without prior approval of the Market Manager.

- All products must be clearly marked as to price.
- Any person selling organic products or representing products as organic shall conspicuously post at the point of sale a photocopy of the represented certified producers' current State of California organic registration and, if applicable, documentation of the represented certified producers' organic certification. Prior to posting organic documents, it is permissible to conceal from public view acreage and dollar amounts pertaining to annual sales. A complete photocopy of the original, unaltered, current organic document(s) shall, upon the request of an enforcement officer, be made available for review at any time during participation in the Market.
- A certified producer shall not sell or represent sprouts as his or her own production resulting from practicing the agricultural arts if less than 50 percent of the seeds, legumes or nuts in any package or container have sprouts that have emerged from the seed, legume or nut coat, husk, pericarp or other type of covering.

Certified Producer Sales

- A certified producer shall not represent, nor be represented by more than two other certified producers in a 12 month period.
- Each certified producer's certified agricultural products to be sold or offered for sale shall be separated and identifiable by each certified producer's valid certificate at the point of sale.
- The name of the certified producer for whom another certified producer is selling shall appear on the certificate of the certified producer that is conducting sales.
- The name of the certified producer who is selling the products of another certified producer shall appear on the certificate of the person or entity for which the certified producer is selling.
- The certified producer selling for another certified producer shall be selling or offering for sale, at the same certified farmers' Market on the same day, certified agricultural products which the certified producer conducting the sales has produced and which are in greater volume than the volume offered for sale for the other certified producer. The volume shall be measured by the weight or dollar value of the products at the time and point of sale. This volume requirement shall apply only at the beginning of each day of sale.
- The producer applying for certification shall obtain and submit to the agricultural commissioner, prior to certification, written authority from said or other certified producers on their behalf.
- A certified producer who sells certified agricultural products on behalf of another certified producer or whose products are sold by another certified producer shall keep for a period of not less than three years, the following records relating to such products:
 - Date of transfer to seller and accurate amount of products, by weight, dry measure, or count, transferred. Each separate product and amount shall be recorded according to variety.
 - Date of sale and accurate amount of products, by weight, dry measure, or count, sold. Each separate product and amount shall be recorded according to variety.
 - Names of both certified producers involved.
- A certified producer subject to this subdivision shall produce, for inspection, records required by this section upon demand of a representative of the department or county agricultural commissioner.

MARKET RULES & REGULATIONS

7. Load Sheet Requirements:

- Each producer shall itemize all products sold on their product load sheet each Market day.
- The product load sheet shall state the name and registration number of the Certified Producer.
- The load sheet shall identify each product brought to the Market as it appears on the certified producers' certificate.
- The load sheet shall state the quantity of each product sold that day. The only acceptable units are pounds (lbs.) ounces (ozs.), standard units of measure such as gallons (gals.), cups (c.), table spoons (tbs.), teaspoons (tsps.), stems, dozen eggs, and jars and pots.

Failure to properly fill out the load sheet shall result in a verbal warning and all incorrectly submitted load sheets shall be redone and resubmitted for the records.

A second failure shall result in a written warning and the vendor producer could be issued a fine up to \$50.00. A third failure shall result in written warning and a mandatory \$50.00 fine. A fourth failure will result in a written warning and 30 day suspension from the Market. Any further issues on correctly filling out the load sheets could result in dismissal from the Market entirely.

8. Scales:

Scales used in the Market must maintain current valid inspection seals from the County agent in charge of weights and measures.

9. Attendance:

- All vendors have the right to vacation or sick leave. It is recognized that life happens. Vendors are allowed 2 sick days per year. Vendors are allowed 2 vacation days (two weeks) leave with prior notification. It is requested that a 30 day notice be given for all vacation days and a 24 hour notice, if possible, for sick leave. Bad weather is not a reason, nor will it be accepted, for sick day leave. If a longer period of absence is needed for medical or personal reasons please notify the Market Manager and consideration, if possible, will be made to hold a producer/seller's booth space.
- A vendor that misses two consecutive Markets has forfeited their space in the Market. Vendors who have forfeited their space have the right of appeal – see right of appeal for more information. Market Management cannot guarantee any vendor reentry to the Market after an extended leave of absence (4 or more absences) whether noticed or not.
- Producers/sellers are asked to notify the Market Manager if they will not be attending the next week's Market. Every effort will be made to provide a substitute vendor for the booth location. However, if the spot cannot be filled for the following week's Market, it is the responsibility of the producer/vendor to pay the minimum charge for their booth space. (This cost will vary depending on vendor type, see vendor application for minimum booth fees.)
- Vendors that arrive after Market opens will not be allowed to set up without prior approval from the Market Manager.
- Only persons listed as employees or authorized sellers for a vendor may assist any vendor (see Permits and Sales).
- Vendors and all equipment must vacate area within two hours of the close of the Market.
- Rain or Shine Market:

MARKET RULES & REGULATIONS

- "The New Farmers' Market" book by Vance Corum, Marcie Rosenzweig & Eric Gibson: Rain or Shine states: "Building loyal customers and farmers is dependent upon each knowing the other will come consistently rain or shine. Especially from a distance, farmers in sun may be unaware of rain across the hills. Conversely, a lengthy downpour may prevent farmers from harvesting while the Market is sunny. With all but a very small Market, it would be impossible to notify farmers and customers that a Market day is canceled. Build customers' faith that farmers are depending on them to come and you'll probably have about two-thirds of your normal balance. Everyone will do okay and you will have kept the continuity."
- Conversely, we are a rain or shine Market and expect our vendors to be there for our customers.
- Rainy Day Discounts: Often, in San Diego County, only light rains may pass; discounts are at the discretion of the Market Manager on site and are given for severe weather impeding the foot traffic at the Market. Discounts are 10% of total sales or \$20.00 respectively.

10. Booths/Fire Safety:

All booth locations are assigned by Market Management.

Required for all booths: 2A:10B:C fire extinguisher with annual California State Fire Marshal certification tag affixed. Vendors with generators and fuel powered equipment shall have a 4A:60B:C rated fire extinguisher with annual California State Fire Marshal certification tag affixed. All food vendors will at all times have a protective covering placed on the ground directly under their canopy/work area. If a substance comes in contact with the pavement, it will be cleaned by vendor.

11. Tents/Canopies/Fire Safety:

All tents/canopies must be tied down securely or weighted. No exceptions. Tie downs will be inspected each Market day. Non-compliance will result in termination from the Market.


Standard Vendor Tents/Canopies having an area in excess of 200 square feet and or canopies placed together in excess of 400 square feet or multiple tents and or canopies placed together equaling or greater than the above stated area, are to be used, they shall be flame-retardant treated with an approved State Fire Marshal seal attached. A permit from the Fire Department must be obtained. **All tents, canopies and temporary membrane structures shall be provided with a minimum (1) 2A:10B:C: FIRE EXTINGUISHER WITH ANNUAL CALIFORNIA STATE FIRE MARSHAL CERTIFICATION TAG AFFIXED.**

12. Food Vendors/Fire Safety:

- **Cooking Booths:** All food vendors must follow the Department of Health regulations for farmers markets as set forth at

<http://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/pdf/farmersmarkets.pdf>

MARKET RULES & REGULATIONS

- Where cooking appliances are present, canopies shall be flame retardant treated with an approved State Fire Marshal seal attached.
 - Individual canopies or groups of canopies totaling 400 square feet shall be separated by a minimum of 20 feet from other canopies. The use of charcoal and lighter fluid is prohibited and shall not be used for any reason. Smoking or open flame devices, such as candles, tiki torches, etc. shall not be permitted within or adjacent to canopies or tents.
- 
- **Propane:** All vendors utilizing propane shall maintain all tanks in a secure and upright position at all times. The use of approved tank stands is recommended. Bulk storage of propane tanks must be in preapproved location with approved signage and security.
 - **Cooking or Heating Appliances:** All cooking and heating appliances are to be of an approved type and in good working conditions. All cooking and heating devices must be vented to the outside by approved means. Where vents or flues are used, all portions of the canopy or tent shall be no less than 12 inches from the flue or vent. Cooking and heating appliance shall not be placed in close proximity to tent or canopy walls, netting, cover, etc.
 - **Ground covering:** All food booths will have protective ground covering. No exceptions. Open flame and vendors who are cooking with oil and/or any other flammable substance **are required to use ground cover that has been certified by the Fire Marshall flame resistant.**
 - **Food Samples:** All food samples must be kept covered.
 - **Fire Extinguishers:** Required: 2A:10B:C fire extinguisher with annual California State Fire Marshal certification tag affixed. No exceptions. Generators and Fuel powered equipment shall have a 4A:60B:C rated fire extinguisher with annual California State Fire Marshal Certification tag affixed. (See #9 Fuel Powered Equipment)
 - **Electrical Shut Off:** All electrical cooking or heating appliances shall be plugged in to an outdoor approved power tap. The power tap is to be located within 6 feet of the appliance, be easy to access and will be used in the event that an emergency shut off of the appliance is necessary.

13. Fuel Powered Equipment:

Generators and Fuel powered equipment shall have a 4A:60B:C rated fire extinguisher with annual California State Fire Marshal Certification tag affixed mounted near the equipment, within the operator's control. Generators are to be at least 20 feet from any canopy with a 3 foot fence structure around the generator for fire and safety compliance.

14. Electricity:

Extension cords and power cables must be of an approved type, appropriately rated and sized for the intended use, amperage and length. Cords, cables are required to be rated for outdoor use. Electrical cords and cables are not allowed on walkways unless an approved protective mat or ramp or other device shall protect any electrical cords or cables that are exposed to pedestrian or vehicle traffic. All electrical appliances/devices must be plugged directly into an approved power tap which is a polarized or grounded type, equipped with (circuit breaker reset), and shall be listed in accordance with UL 1363. Providing an approved power tap appliance is the responsibility of every vendor using electricity.

MARKET RULES & REGULATIONS

15. Trash/Waste:

Glass: No glass is allowed on Citronica Plaza unless it is approved (i.e. art sculpture).

Spills and Trash: All vendors are required to clean up spills on Citronica Plaza. Please notify Market Management of any spills on the Plaza. Vendors must have trash receptacles for customers and are responsible for removing any debris or trash that is generated. Violation of this rule is grounds for immediate dismissal from the Market. We are granted a privilege to vend at this location. Just as if you owned your own store front, you are expected to manage trash, waste and debris away from Citronica Plaza.

Recycling: Cans, bottles, paper and cardboard, or any other recyclable material, shall be properly disposed of properly.

Water Disposal: No water, or any liquid or material, will be disposed of down the storm drains, on adjacent plants, grass or trees, on the parking lot or sidewalk. All water must be disposed of properly -- See Market Manager for location and compliance. Again, there is no water dumping on the Plaza, on the plants, trees or grass, down storm drains or on the street. Violation of this rule is grounds for immediate dismissal from the Market.

Grease/Oil Disposal: Absolutely **NO** disposal of grease/oil is allowed anywhere at the Market. All grease/oil must be taken with the vendor and disposed of elsewhere away from the Lemon Grove Citronica Plaza. Market Management will bill costs associated with cleanup of any grease/oil to the violating vendor. Thank you for your strict compliance to this rule. Violation of this rule is immediate grounds for removal from the Market.

Ground Cover -- Again, all food vendors will at all times have a protective covering placed on the ground directly under their canopy/work area. If a substance comes in contact with the pavement, it will be cleaned by vendor immediately. Should any further professional cleaning be required by the City of Lemon Grove to clean a vendor booth space, the vendor agrees to reimburse Market Management for these cleaning charges. In the event that the City of Lemon Grove deems a larger area of the Market needs to be professionally cleaned and it is found that this cleaning is the direct result of the Market, the cleaning charge will be distributed equally to all food vendors. This fee will only be collected if the Market incurs a charge.

16. Public Safety:

All vendors are to be in compliance with the California Fire Code (CFC) currently adopted edition and the City of Lemon Grove Municipal Code. Fire hydrants shall not be blocked or obstructed at any time. All vendors must follow the rules for use of the Citronica Plaza and the City of Lemon Grove.

17. Personal Code of Conduct:

- No smoking
- No drinking
- No illegal drug use
- Appropriate clothing (it can get very cool, windy and foggy by the beach).
 - Sales persons MUST wear CLEAN attire.
 - Sales persons must practice personal hygiene.

MARKET RULES & REGULATIONS

- Gossip, rumor spreading and general negativity among participants will not be tolerated. It is considered to be an extreme violation of the Personal Code of Conduct to negatively speak to or talk about another vendor, including their products, where or with customers in the Market. Please remember the "Golden Rule – if you have nothing nice to say, say nothing."
- **Customer Service**
Excellent customer service is expected at all times at our Market. We realize that there are people who can get on anyone's last nerve, however we expect as a business owner and professional you are able to maintain appropriate and polite exchange with all customers. The Market Manager, and/or the Assistant Market Manager acting on the Market Manager's behalf, has the authority to immediately remove any vendor who violates any rule of the Market at any time and any vendor can invoke the "Right of Appeal" process.
Notwithstanding an extreme violation of the Market's rules or violation of any local, state or federal law, the "Progressive Discipline System" will be followed.
- Vendor disputes are NOT to be discussed between Vendors. It is NEVER appropriate for any Vendor to harass, intentioned or not, any other Vendor or their representatives. All disputes are to be taken up with Market Management. The Market Management will decide what action to take on any dispute. If a Vendor feels that their dispute is not being handled by Market Management, a Vendor is encouraged to file a written dispute. Mail your dispute to _____, Lemon Grove, CA 91945 or present your written dispute at one of the regularly scheduled meetings. Meetings are posted on our website at www.lgcfm.com (Site In-Progress)

18. Progressive Discipline System:

- The Progressive Discipline System applies to most rules and regulations as well as to the Personal Code of Conduct of the Market. Some rules and regulation have specific consequences and do not apply under the Progressive Discipline System.
 - **1-2 verbal warnings**
 - **1 Written warning**
 - **Suspension** (*A person or business may be suspended from the Market, as deemed necessary by Market Management, for extreme situations that may involve, but are not limited to, a customer complaint or other legal issue brought to the attention of the City of Lemon Grove or the Market Management.*)
 - **Termination** (*A person or business may be immediately terminated by the Market Manager if the situation so warrants. Otherwise, the above Progressive Discipline System will be followed*)
- **Market participants have the "Right to Appeal" the imposition by the Market Manager for any fine, suspension, or expulsion from this Market. See "Right of Appeal."**

19. Right of Appeal:

The Lemon Grove Certified Farmers Market is owned and operated by Help Me Johnny and Urban Herbs Vertical Farms to improve and make Lemon Grove a healthier more active and vibrant place to live. Should any vendor/producer be dismissed from the Market that vendor/producer has the right to appeal such action. Notice of the alleged violation with the factual basis for it and the proposed penalty. It is important to recognize that final decision of termination made on all appeals will be made by the owners of Help Me Johnny and Urban Herbs Vertical Farms. Under section 16,

MARKET RULES & REGULATIONS

you will find the "Progressive Discipline System" for our Market. If an appeal is requested, a vendor/producer has a right to dispute the alleged violation and the proposed penalty. Although the Market Manager, and/or the assistant Market manager acting on the Market Manager's behalf, has the authority to immediately remove any vendor/producer who violates any rule of the Market at any time, a vendor/producer may appeal to the owners and partners of Help Me Johnny and Urban Herbs Vertical Farms for continued participation in the Lemon Grove Certified Farmers Market by:

1. Submitting a notarized letter of request to appeal the decision to remove or dismiss a vendor/producer from the Market to _____
The letter requesting the appeal must be received within 30 days of determination or incident. Please provide letters of recommendation or further documentation regarding the incident with the appeal.
2. A vendor/producer may request to be added to the agenda of the next public meeting for Help Me Johnny and Urban Herbs Vertical Farms. These meetings are generally held on the 1st Thursday of each month. Call 619.647.6903 or go online to www.lgcfm.com for the time and location and to be added to any agenda that may be presented for the public. Any vendor/producer, without notice, may be heard at the meeting. However, if a vendor/producer disrupts a regularly scheduled public meeting, without notice, the vendor/producer will be asked to leave and their public appeal request letter will be denied.
3. The letter of appeal will be reviewed by the owners and partners at their next regular meeting of the board and a final decision of the Board of Directors will be made at that time.
4. A formal written decision/response will be mailed to vendor/producer no later than 3 days from final determination.

MARKET RULES & REGULATIONS

20. Other Important Contact Information

City of Lemon Grove Business License Information is located at Lemon Grove City Hall, 3232 Main Street, Lemon Grove, CA 91945. Business Licenses can also be applied for online at <http://www.lemongrove.ca.gov/business/business-licenses>. For more information on Business Licenses contact Brenda Wardrip, License Clerk, at (619) 825-3800 or e-mail: bwardrip@lemongrove.ca.gov.

City of Lemon Grove Fire Department is located at 7853 Central Ave, Lemon Grove, CA 91945. The fire marshal may routinely inspect our Market for assistance in maintaining a safe environment for our community. The fire department is available to answer any questions you may have regarding fire safety and compliance issues. The phone number for the Lemon Grove Fire Department is (619) 825-3835

City of Lemon Grove Sheriff Department is located at 3240 Main St, Lemon Grove, CA 91945 (619) 337-2000. We encourage police presence at our Market.

Department of Agriculture, Weights and Measure

9325 Hazard Way, Suite 100, San Diego, CA 92123

Phone: (858) 694-2739 FAX (858)467-9697 <http://www.sdcawm.org>

Additionally, for information on how to become a certified producer go to the County of San Diego online at http://www.sdcounty.ca.gov/awm/farmers_Markets.html.

San Diego County Department of Environmental Health

To become a food vendor please refer to the County of San Diego's Department of Health online <http://www.sdcounty.ca.gov/deh/food/tempevents.html> (858) 505-6809.

State Board of Equalization -- Seller's permits can be obtained at <http://www.boe.ca.gov>. Seller's permits are free and vendors will more than likely hold more than one seller's permit. A seller's permit is required for each location that the vendor conducts business. For the Lemon Grove Certified Farmers Market this location is Citronica Plaza, 7401 North Avenue, Lemon Grove, CA 91945.

**** NO Fair Trade Vending ---** An example of "Fair Trade" would be buying muffins at Costco and selling them at the Market for a profit -- if you didn't make the muffins yourself we would not want you to sell these at our Market. Another example is buying products from overseas, such as hats or scarves and, again, selling them for a profit at the Market.

*We wish you every success in the
Lemon Grove Certified Farmers Market*

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date December 16, 2014
Dept. City Manager's Office

Item Title: Public Safety Focus Group Report

Staff Contact: Graham Mitchell, City Manager

Recommendation:

Receive Public Safety Focus Group report and provide direction.

Item Summary:

One of the goals established by the City Council during its 2014 goal setting workshop was to create and receive a report from a Public Safety Focus Group. The City Council established two objectives for the focus group:

- 1) Provide strategies to address public safety and the perception of safety in the City's commercial corridors, and
- 2) Provide strategies to address the drain on public resources responding to group homes/sober living facilities.

The purpose of this agenda item is to present the findings developed by the Public Safety Focus Group. The staff report (**Attachment A**) provides background information and presents the findings from the focus group.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

A. Staff Report

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 3

Mtg. Date December 16, 2014

Item Title: **Public Safety Focus Group Report**

Staff Contact: Graham Mitchell, City Manager

Discussion:

One of the goals established by the City Council during its 2014 goal setting workshop was to create and receive a report from a Public Safety Focus Group. The City Council established two objectives for the focus group (made up of 13 community members):

- 1) Provide strategies to address public safety and the perception of safety in the City's commercial corridors, and
- 2) Provide strategies to address the drain on public resources responding to group homes/sober living facilities.

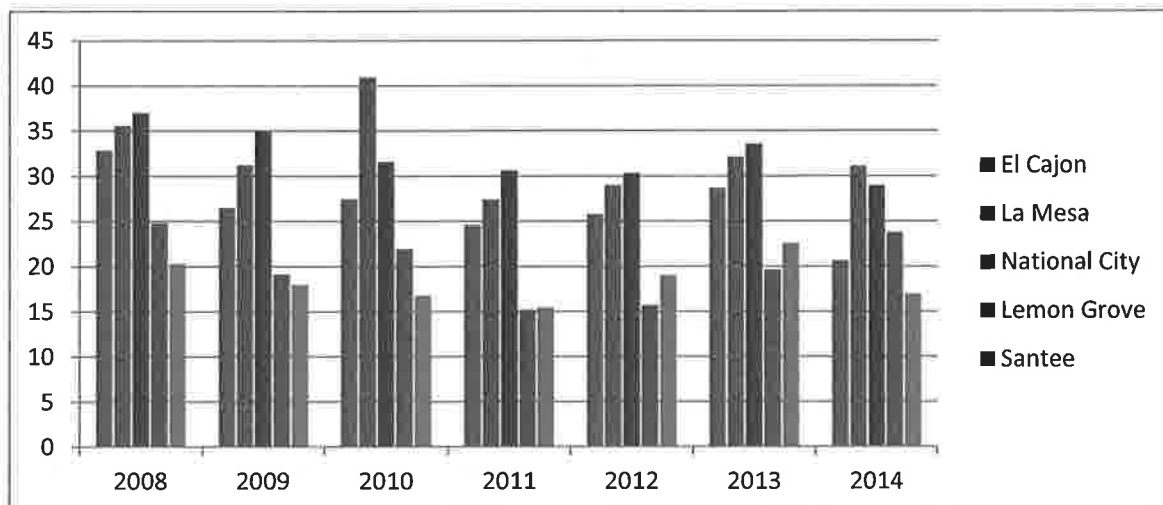
The focus group conducted two meetings. The first meeting focused on the first objective. The focus group, through group discussions, first identified public safety challenges and then solutions to address those specific challenges. During its second meeting, the focus group discussed the drain of public resources resulting from group homes and sober living facilities.

The purpose of this staff report is to provide some of the background data reviewed by the focus group and to present the findings developed from the focus group discussions. For the agenda item presentation, staff will provide an overview of the data included in this report and focus group members will present their findings.

Public Safety and the Perception of Safety in Commercial Corridors

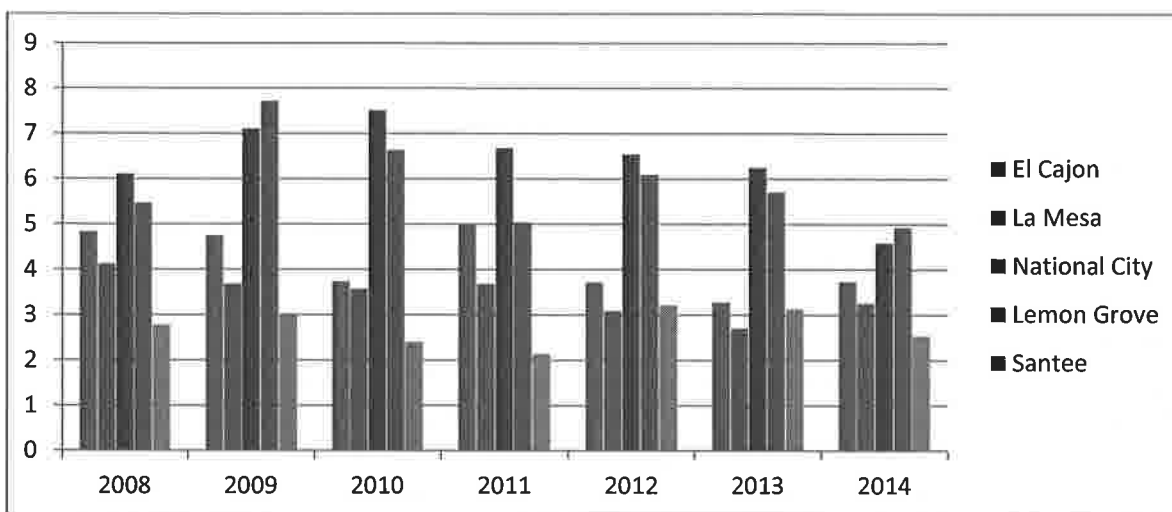
Prior to meeting, staff presented the focus group with a memo that provided data regarding crime in the commercial areas of the City. The report noted that property crime rates are lower than neighboring cities, while violent crime rates are higher. Focus group members were provided two graphs illustrating these data trends.

Annualized Property Crime Index Per 1,000



Attachment A

Annualized Violent Crime Index Per 1,000

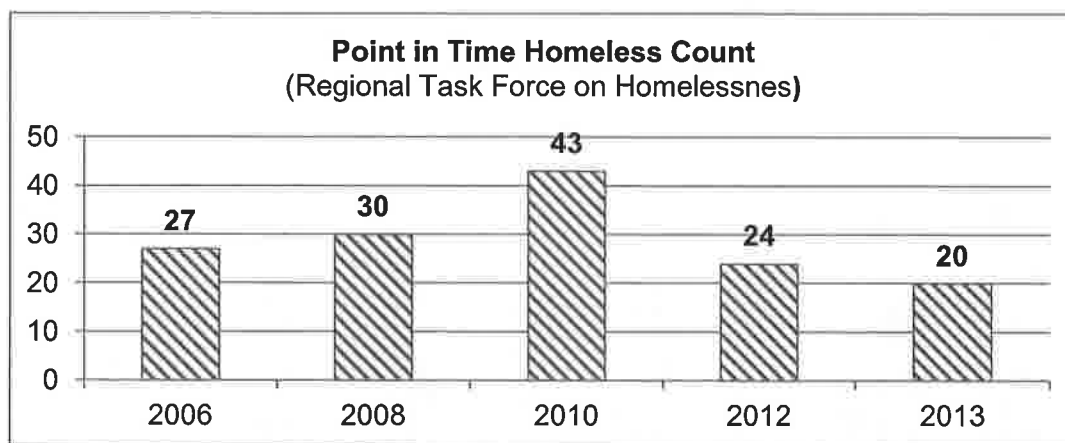


Crime data for the City's commercial corridors for the past year were provided. Between January 1, 2014 and September 30, 2014, there have been 238 crime incidents. The following table shows the crimes committed per quarter.

2014	<i>Crime Incidents</i>
Quarter 1	92
Quarter 2	78
Quarter 3	68
AVERAGE	79.3

Of these 238 incidents, approximately 50 percent were shoplifting incidents. Factoring out the shoplifting crime, there was a monthly average of 13.3 crimes committed in the City's commercial corridor between January 1st and September 30th.

The focus group also was provided data regarding homelessness. Staff provided the group with data from the past five "point in time" survey of homeless population in the City.



To help understand the impact of homelessness on public safety demands, staff provided data from September 2014 regarding calls for service (not necessarily reportable incidents) that involved the City's homeless population. This activity does not include self-initiated contact or checking for known homeless encampments.

Attachment A

During September, 26 calls for service were made—an average of almost one call per day. Of the 26 calls, six resulted in cases being written by the deputies. Of those 26 calls for service, “trespassing” and “suspicious persons” each made up 30 percent of the calls. The other 40 percent of the calls were related to consuming alcohol in public or intoxication, disturbance, drug related activity, or domestic violence. The majority of the calls for service are concentrated in the area of Broadway/Massachusetts Avenue intersection.

Lastly, staff provided data regarding the number of deputies contracted by the City for the past ten years.

Fiscal Year	Patrol	Traffic	Motor	Total
FY 2005-06	11.68	2.78	1	15.46
FY 2006-07	11.68	2.78	1	15.46
FY 2007-08	12	3	1	16
FY 2008-09	12	3	1	16
FY 2009-10	12	3	1	16
FY 2010-11	12	3	1	16
FY 2011-12	13	3	0	16
FY 2012-13	13	3	0	16
FY 2013-14	13	3	0	16
FY 2014-15	13	3	0	16

Staff informed the focus group that the current annual contact rate for an additional deputy is \$194,007.

Most Significant Public Safety Challenges

The focus group, through group discussions, identified the three most significant public safety challenges in the City’s commercial corridors. The challenges identified by the focus group included: physical environment, intimidating groups, and lack of community involvement.

Physical Environment

- Some properties and public spaces, because of their design, invite criminal activity or the perception of criminal activity
- Low property and business maintenance standards
- Store layouts and exits attract shoplifting at some businesses

Intimidating Groups

- Congregation of transients and aggressive panhandling creates an unwelcoming atmosphere
- Loitering of gang members or perceived gang members creates a frightening atmosphere for some
- Evidence of substance abuse in public spaces

Lack of Community Involvement

- Residents and visitors do not reporting crime or do not know how to report crime
- Lack of education, training or opportunities for those wishing to bring positive changes to the City’s commercial areas

Attachment A

Solutions

After identifying the challenges, the focus group members developed solutions to overcome the three challenges.

Physical Environment

- 1) Expand Crime Free Multi-Housing to all apartment complexes in and surrounding commercial zones
- 2) Create a program similar to Crime Free Multi-Housing for businesses and require them to meet established standards
- 3) Rely on community volunteers (e.g. students, seniors, others) to provide ongoing clean of the commercial areas
- 4) Have more visible law enforcement presence/use law enforcement volunteers in commercial areas
- 5) Proactively use code enforcement to maintain established standards
- 6) Eliminate design defaults that attract nuisances
- 7) Establish a visible "resource center" that provides substance abuse counseling, training, mentoring, etc. in the downtown area.

Intimidating Groups

- 1) Some of the solutions identified for the "Physical Environment" challenge will assist in overcoming this challenge
- 2) Encourage property owners to enforce "no trespassing" laws
- 3) Develop an anti-panhandling campaign that encourages residents to donate to local food banks and charitable organizations rather than give money to panhandlers

Lack of Community Involvement

- 1) Develop a campaign on how to report a crime (marketing materials such as magnets, newsletter information, "see something, say something," etc.)
- 2) Allow for reporting non-emergency incidents via the City's website
- 3) Activate neighborhood watch programs in and around the commercial corridors
- 4) Host a community-wide workshop on how to become more involved in public safety solutions

Group Homes/Sober Living Facilities

To prepare focus group members for the second meeting, staff presented background information and data regarding group homes and sober living facilities. It is important to note that there are many types of facilities and each require different sets of regulations. There are licensed facilities through the State, which include:

- foster family homes,
- group homes that provide 24-hour supervision, care and treatment services,
- adult day programs,
- elderly residential care, and
- drug and alcohol residential treatment facilities.

Sober living or other independent living homes that include six or less beds require no State licensing. Further, local governments are prohibited from regulating these types of facilities through zoning requirements. The challenge with these smaller facilities is that the City does not know how many of these properties actually operate within the City. Using California's state

Attachment A

websites, staff identified the licensed facilities in the City. Relying on its public safety and code enforcement departments, staff also identified the number of “known” sober living/independent living facilities in the City. The table below identifies the number of each of these facilities, along with the known residential capacity for each type (not included in this table are the larger skilled nursing care or senior living complexes). A map that shows the general location of these facilities will be provided.

Type	# of Facilities	Resident Capacity
Certified Drug & Alcohol Residential Treatment	2	140
Licensed Community Care Residential	8	57
KNOWN Sober Living & Other Independent Living	17	unknown

Staff calculated the number of calls for service between July 1, 2013 and June 30, 2014 from both the Fire Department and the Sheriff’s Department.

Facility Category	Fire Calls for Service	Sheriff Calls for Service	Total Calls for Service
Certified Drug & Alcohol Residential Treatment (2)	49	73	122
Licensed Community Care Residential (8)	19	82	101
[KNOWN] Sober Living & Other Independent Living (15)	85	134	219
TOTAL	153	289	442

During this one-year period, a total of 442 calls were responded to by public safety staff. The Certified Drug & Alcohol Residential Treatment facilities (both operated by the McAlister Institute) average 61 calls per year, each Licensed Community Care Residential facility averages 12.6 calls per year, and each known Sober Living & Other Independent Living home averages 14.6 calls per year.

The average number of calls per facility is skewed by several properties that demand greater service than others. For example, two of the Licensed Community Care facilities required 77 calls combined—leaving the other six facilities an average of only four calls last year. Of the Sober Living & Other Independent Living homes, one property had as many as 64 calls in the one-year period while four properties had two or less calls for service.

Fire Department calls for service range from reaction to medication to difficulty breathing, seizures, vomiting, drug overdose, etc. Sheriff’s Department calls for service range from mental health evaluation to drug/alcohol violation, assault, domestic disturbance, etc.

There is a cost associated with responding to a call for service. An average Fire Department call for service of 23 minutes equates to a cost of approximately \$60 for an engine company to respond. An average Sheriff’s Department call for service of 90 minutes equates to a cost of \$225. Assuming the calls for service to these facilities last year were average calls, the City spent approximately \$74,000 providing services to these known 25 facilities.

Solutions

The focus group discussed possible solutions that are within the scope of State law. The focus group recognized that the City cannot regulate State-licensed facilities or small group homes through zoning. The focus group also recognized that well-run facilities do not generate

Attachment A

abnormally high volumes of calls. Some of the solutions developed were general and comprehensive, while other solutions were more targeted to those that are deemed to have excessive calls.

Targeted Solutions – the focus group identified several targeted solutions. It was thought that perhaps some owners that lease their residential properties to those that operate group homes may not know the challenges the City faces relative to their property. Given this possibility, the focus group suggested that the City reach out to owners with high public safety call volumes. The City could offer to meet with interested owners and inform them of the problems at the property and offer resources to assist them (i.e. lease agreements and industry standard rules and regulations).

In the event property owners are not willing to assist in lowering call volumes, the focus group discussed the possibility of the City establishing penalties for any property requiring higher than average levels of public safety services—similar to false alarm penalty fees. This would be enforced on any property exceeded a determined number of calls in a given period of time.

Lastly, the focus group discussed relying on code enforcement tools. It was assumed that properties that require many calls for service may also have code enforcement violations. Staff inspected, from the public right-of-way, each of the properties with 10 or more calls last year and found no code violations. Staff also reviewed the files and found no complaints about the high volume call properties. As such, this strategy may not be effective.

General/Comprehensive Solutions – the focus group identified a general or comprehensive solution. Because the City cannot regulate group homes, the focus group discussed the idea of requiring a business license for rental units in the City. This concept would allow for certain regulations through the business licensing process, such as required participation in crime-free housing programs and establishment of business standards (including lease agreements) with penalties for non-compliance. This strategy would require a municipal code change through a vote of the electorate and would be a costly program to administer. Other legal ramifications would need to be evaluated.

Conclusion:

During its goal workshop discussions, the City Council discussed evaluating solutions identified by the Public Safety Focus Group and considering them for implementation. Some of the ideas generated by the focus group are relatively easy to implement (i.e. proactively using code enforcement tools, encourage owners to enforce “no trespassing” laws, or market ways to report crimes). Other focus group suggestions are much more complex to evaluate and implement (i.e. create and manage a downtown cleanup volunteer crew, identify and eliminate design features that attract nuisances, or initiate a ballot measure to change the business licenses ordinance). Staff suggests that these more complex solutions be addressed during the upcoming City Council goal setting workshop in January/February 2015.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 4
Mtg. Date December 16, 2014
Dept. Development Services/City Manager's Office

Item Title: **Lemon Grove Public Artwork**

Staff Contact: Carol Dick, Director of Development Services
Graham Mitchell, City Manager

Recommendation:

- 1) Adopt a resolution (**Attachment B**) approving the submission of an encroachment permit application with the State of California, Department of Transportation for the installation of a mural on the State Route 94 overpass at Buena Vista Avenue and authorizing any necessary modifications to the Freeway Maintenance Agreement between the State and the City; and
- 2) Adopt a resolution (**Attachment C**) approving a Memorandum of Understanding between the City and Miguel Angel Godoy for the installation of a public mural on the State Route 94 overpass at Buena Vista Avenue.

Item Summary:

The purpose of this agenda item is to present a potential public artwork in the City. If the City Council wishes to authorize the public art, staff has prepared two resolutions required in order to move forward. The first resolution (**Attachment B**) authorizes the City to submit an encroachment permit application with the State of California, Department of Transportation (Caltrans) for the installation of a mural on the State Route 94 overpass at Buena Vista Avenue. The second resolution (**Attachment C**) approves a Memorandum of Understanding between the City and the artist. The staff report (**Attachment A**) provides background information regarding this project and provides a description regarding the two resolutions presented for consideration.

Fiscal Impact:

Staff performs graffiti removal on an average of once per month at the SR94 overpass at Buena Vista Avenue. Given its experience with other murals in the City, staff estimates that the number of graffiti removal work orders will decrease at the site once the mural is installed.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|--|---|
| <input type="checkbox"/> None | <input checked="" type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution (with the Freeway Maintenance Agreement)
- C. Resolution (with Memorandum of Understanding between City and Miguel Angel Godoy)

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 4

Mtg. Date December 16, 2014

Item Title: **Lemon Grove Public Artwork**

Staff Contact: Carol Dick, Director of Development Services
Graham Mitchell, City Manager

Discussion:

The purpose of this staff report is to present a potential public artwork in the City. If the City Council wishes to authorize the public art, staff has prepared two resolutions required in order to move forward. The first resolution (**Attachment B**) authorizes the City to submit an encroachment permit application with the State of California, Department of Transportation (Caltrans) for the installation of a mural on the State Route 94 overpass at Buena Vista Avenue. The second resolution (**Attachment C**) approves a Memorandum of Understanding between the City and the artist. The staff report provides background information regarding this project and provides a description regarding the two resolutions presented for consideration.

The San Diego Museum of Art's Open Spaces Program

Managed through its Department of Education and Public Engagement, the San Diego Museum of Art (SDMA) operates a program referred to as "Open Spaces" to promote public art in communities within San Diego County. The program is funded through a grant from the James Irvine Foundation. Lemon Grove is one of four San Diego County communities selected as a recipient of this program.

For each project, community members attending the workshops collaborate with the selected artists and Museum representatives to determine the content, location, and media of each work of art, and decide how this work reflects the unique character of their community.

The overall goal of this grant aims to create partnerships with new audiences that strengthen San Diego's cultural environment and celebrate beauty in local communities through:

- The creation of permanent, iconic works of public artworks which reflect the unique social fabric of each area, and strengthen a personal sense of identity and place.
- Spur cultural tourism and demonstrate the positive, economic impact of public art.
- Engage neighbors in a collaborative art project while building meaningful and enduring relationships between residents and the Museum.
- Support the imagination, uniqueness, and significance of local communities.

The Open Spaces Program relies on the input of a wide range of community members to identify potential public art projects and then to help evaluate which project would be actually produced.

The San Diego Museum of Art hosted seven community workshops between July 14th and November 15th this year. These workshops sought to involve a diverse group of community members and ranged between 10 and 27 participants at each workshop. During the workshop process, City staff was involved in more of an observation and provider of information role. At each of the workshops, either the Director of Development Services or the City Manager attended.

Attachment A

Through the workshops, the community initially identified 7 potential art projects. These projects included:

- Buena Vists Avenue Bridge
- Lemon Grove Skate Park
- Utility Boxes
- Recycled Art Sculpture
- Cultural Motifs
- Lemonade Stand
- #IntrospectiveTree

After further community input through a workshop and an online survey, the San Diego Museum of Art narrowed the potential projects to three—a mural under SR94 bridge at Buena Vista Avenue, a utility box art project, and art at the Lemon Grove skate spot. On November 15th, the community members attending the workshop realized that the skate spot schedule was not ideal for this project, but perhaps as a part of the improvements currently being considered. The members also came to consensus that the project with the most significant impact for the community was the mural under the SR94 bridge at Buena Vista Avenue.

Since the November 15th workshop, the San Diego Museum of Art staff and City staff met with Caltrans representatives regarding permit requirements. Caltrans staff was enthusiastic and supportive and asked to see proposals as soon as possible in order to provide additional advice. Requirements identified by Caltrans included: 1) City Council resolution (**Attachment B**) authorizing the submittal of an encroachment permit and authorizing potential modifications to the Freeway Maintenance Agreement between the City and Caltrans; and 2) a scope of work of the proposed art project.

Also, staff recommends that the City enter into a Memorandum of Understanding with Miguel Angel Godoy (the Artist) to define responsibilities, maintenance, replacement and ownership of the art piece (**Attachment C**).

Caltrans Encroachment Permit

A Freeway Maintenance Agreement between the City and Caltrans, initially approved on March 4, 1980, clarifies the division of maintenance responsibilities for City streets, landscape areas, bridges, overpasses, and other areas around Caltrans-operated freeways. Currently, the City is responsible to maintain the street under an overpass and the walls of the overpass. The Freeway Maintenance Agreement requires the City to obtain an encroachment permit if the City plans to modify Caltrans structures, such as a bridge overpass.

Staff has been working with the Artist to prepare an encroachment permit application with Caltrans. The permit, if granted, will allow the Artist to install the mural at the designated site and will require the City to be responsible for the maintenance of the artwork. The encroachment permit may require a modification to the 1980 Freeway Maintenance Agreement, mostly likely as an addendum or exhibit to the original agreement. The resolution included in **Attachment B** authorizes the City to submit the encroachment permit and approves an amendment to the Freeway Maintenance Agreement to allow for the installation of the mural.

Memorandum of Understanding

Staff also recommends that prior to allowing the installation of the mural, the City and the Artist enter into a Memorandum of Understanding (MOU) to memorialize the relationship between the two parties and establish the parties' respective roles and obligations related to the public art project.

Attachment A

The MOU specifies that the City and the Artist will cooperate in the preparation of the Caltrans encroachment permit, that the Artist will pay for the permit, and that the Artist will apply for a City encroachment permit, at no fee. The MOU also requires the Artist to be responsible for the installation of the mural and that he will apply a double coating of protective clear coat (this serves as anti-graffiti protection). During the installation phase, the MOU indicates that the City will manage the traffic control required by Caltrans and the City.

The MOU addresses ownership rights and copyright. The artwork will be owned by the Artist; however, the City will have authorization to utilize images of the artwork for non-commercial uses such as marketing and on its website. The Artist also guarantees that the art will not violate any copyright law. If it does, the MOU indicates that the Artist will defend and hold the City harmless.

The MOU also addresses maintenance of the mural. The MOU indicates that upon completion of the mural, the City will take on the responsibility of maintaining the art at its sole cost and also at its sole discretion. The City also has the absolute right to modify or eliminate the art in order to eliminate a hazard, comply with ADA regulations, remove graffiti, or repair the property due to an accident. Staff estimates that it performs some form of graffiti removal at least once per month at the SR94 overpass at Buena Vista Avenue. Given its experience with other murals in the City, staff estimates that the number of graffiti removal work orders will decrease at the site once the mural is installed.

Conclusion:

Staff recommends that the City Council consider adopting two resolutions. The first resolution (**Attachment B**) approves the submission of an encroachment permit application with Caltrans for the installation of a mural on the State Route 94 overpass at Buena Vista Avenue. It also authorizes any necessary modifications to the Freeway Maintenance Agreement between the State and the City.

The second resolution (**Attachment C**) approves a Memorandum of Understanding between the City and Miguel Angel Godoy for the installation of a public mural on the State Route 94 overpass at Buena Vista Avenue.

RESOLUTION NO. 2014-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA
AUTHORIZING THE SUBMISSION OF AN ENCROACHMENT PERMIT APPLICATION TO
THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION FOR THE
INSTALLATION AND MAINTENANCE OF A MURAL ON THE STATE ROUTE 94
OVERPASS AT BUENA VISTA AVENUE AND AUTHORIZING MODIFICATIONS TO THE
FREEWAY MAINTENANCE AGREEMENT**

WHEREAS, the State of California, Department of Transportation ("Caltrans") requires the issuance of an encroachment permit in order to install public art on structures owned and controlled by Caltrans; and

WHEREAS, the maintenance responsibilities of Caltrans structures are defined by a March 4, 1980 Freeway Maintenance Agreement between the City and Caltrans; and

WHEREAS, a public art piece (the "Artwork"), determined by the community through the San Diego Museum of Art Open Spaces Program, requires installation on a Caltrans structure (the State Route 94 overpass at Buena Vista Avenue); and

WHEREAS, the installation of the Artwork at the State Route 94 overpass at Buena Vista Avenue may initiate necessary modifications to the Freeway Maintenance Agreement between the City and Caltrans; and

WHEREAS, in order to install the Artwork at the State Route 94 overpass at Buena Vista Avenue, it is in the best interest of the community to authorize the submission of an encroachment permit application with Caltrans and to authorize any necessary modifications to the Freeway Maintenance Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Authorizes the submission of an encroachment permit application to the State of California, Department of Transportation for the installation and maintenance of the Artwork on the State Route 94 overpass at Buena Vista Avenue; and
2. Authorizes necessary modifications to the March 4, 1980 Freeway Maintenance Agreement between the City and the State of California (EXHIBIT 1).

/////
/////

Attachment B

EXHIBIT 1

Freeway Maintenance Agreement

ORIGINAL

11-SD-94
7.09-9.99
FMA 11-8127

FREEWAY MAINTENANCE AGREEMENT

50-37-3846

THIS AGREEMENT, made and entered into, in duplicate, this 4th day of March, 1980, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "the State," and the City of Lemon Grove, hereinafter referred to as "the City," witnesseth:

WHEREAS, on July 26, 1954, May 11, 1956 August 13, 1956 and December 3, 1968, Freeway Agreements were executed between the County of San Diego and the State wherein the County agreed and consented to certain adjustments of the County road system required for the development of that portion of State Highway Route 94, within the limits of the County of San Diego, as a freeway, and

WHEREAS, by incorporation on May 6, 1977, the City of Lemon Grove has acquired from the County the portion of Route 94 from Postmile 7.09 to Postmile 9.99, and

WHEREAS, under the terms of the above Freeway Agreements with the County and subsequent incorporation of the City of Lemon Grove, the City will assume control and maintenance over each of the relocated or reconstructed City streets except on those portions thereof adopted as a part of the freeway proper, and

WHEREAS, the parties hereto mutually desire to clarify the division of maintenance responsibility as to separation structures, and City streets or portions thereof, and landscaped areas, within the freeway limits.

MAINTENANCE DEFINED:

Maintenance is defined in Section 27 of the Streets and Highways Code as follows:

- Sec. 27. "(a) The preservation and keeping of rights-of-way, and each type of roadway, structures, safety convenience or device, planting, illumination equipment and other facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other improvement.
- "(b) Operation of special safety convenience and devices, and illuminating equipment.
- "(c) The special or emergency maintenance or repair necessitated by accidents or by storms or other weather conditions, slides, settlements or other unusual or unexpected damage to a roadway, structure or facility."

NOW THEREFORE, IT IS AGREED:

1. When a planned future improvement has been constructed and/or a minor revision has been effected within the limits of the freeway herein described, which affects the division of maintenance, the Department will provide a new dated and revised Exhibit "A," which is made a part hereof by this reference, which will supersede the original exhibit and which will become part of this agreement.

2. ROADWAY SECTIONS

The City will maintain, at City expense, all portions of City streets and appurtenant structures and bordering areas, within the designated areas on the attached maps marked Exhibit "A."

3. VEHICULAR OVERCROSSINGS

The State will maintain, at State expense, the entire structure below the deck surface except as hereinafter provided.

The City will maintain, at City expense, the deck and/or surfacing and shall perform such work as may be necessary to ensure an impervious and/or otherwise suitable surface.

The City will also maintain all portions of the structure above the bridge deck, as above specified, including lighting installations, as well as all traffic service facilities (signals, signs, pavement markings, etc.) that may be required for the benefit or control of City street traffic.

At such locations, as shall be determined by the State, screening shall be placed on State freeway overpasses on which pedestrians are allowed (as directed by Sec. 92.6 of the Streets and Highways Code). All screens under this program will be maintained by the State (at State expense).

4. VEHICULAR UNDERCROSSINGS

The State will maintain the structure proper. The roadway section, including the traveled way, shoulders, curbs, sidewalks, walls (including eliminating graffiti), drainage installations, lighting installations and traffic service facilities that may be required for the benefit or control of City street traffic will be maintained by the City.

5. PEDESTRIAN OVERCROSSINGS

The State will maintain, at State expense, the entire structure below the top of the concrete deck surface, exclusive of any surface treatment thereon. The City will maintain, at City expense, the top of the concrete deck surface, together with any surface treatment thereon, and all portions of the structure above the concrete deck surface, EXCEPT SCREENING which will be maintained by the State at State expense, and shall perform such other work as may be necessary to ensure an impervious and otherwise suitable surface. The City will also maintain all traffic service facilities provided for the benefit or control of pedestrian traffic.

6. PEDESTRIAN UNDERCROSSINGS

The State will maintain the structure from a structural standpoint. The City will maintain all drainage and lighting installations and will be responsible for all cleaning and painting as may be required to keep the structure free of debris and graffiti.

7. LANDSCAPED AREAS ADJACENT TO CROSSING STRUCTURES

Landscaped areas within the limits reserved for freeway use, including traffic interchanges and on and off ramp areas but excluding frontage road areas, will be maintained by the State, at State expense. All plantings or other types of roadside development lying outside of the area reserved for freeway use will be maintained by the City at City expense.

8. INTERCHANGE OPERATION

It is the responsibility of the State to provide efficient operation of freeway interchanges including ramp connections to local streets. The State will not pay for the maintenance, repair, servicing, or power for ordinary street lighting; however, the maintenance of lighting at intersections designed under current warrants for the safety of persons using these facilities will be paid for by the State and shared with the City in the same ratio as the number of intersecting roads or streets under jurisdiction of the respective agencies bears to the total number of roads or streets within the particular intersection; for example, a 50-50 basis will apply to the regular four-way intersection. The necessary traffic signals at ramp terminals will be constructed by the State and timing adjustments will be the State's responsibility. The cost of maintaining the traffic signals will be shared by the State and the City on a pro-rata basis as described above.

9. LIABILITY

It is understood and agreed that neither the State, nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by the City under or in connection with any work, authority or jurisdiction delegated to the City under the Freeway Agreement and this Freeway Maintenance Agreement.

It is also understood and agreed that pursuant to Government Code Section 895.4, the City shall fully indemnify and hold the State harmless from any damage or liability occurring by reason of anything done or omitted to be done by the City under or in connection with any work, authority or jurisdiction delegated to the City under the Agreement.

It is understood and agreed that neither the City nor any officer or employee thereof, is responsible for any damage or liability occurring by reason of anything done or omitted to be done by the State under or in connection with any work, authority or jurisdiction not delegated to the City under the Freeway Agreement and this Freeway Maintenance Agreement.

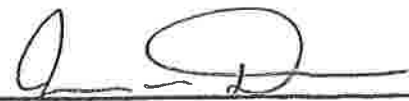

It is also understood and agreed, that pursuant to the Government Code Section 895.4, the State shall fully indemnify and hold the City harmless from any damage or liability occurring by reason of anything done or omitted to be done by the State under or in connection with any work, authority or jurisdiction not delegated to the City under the Freeway Agreement and this Freeway Maintenance Agreement.

10. EFFECTIVE DATE

This Agreement shall be effective upon the date of its execution by the State; it being understood and agreed, however, that the execution of this Agreement shall not affect any pre-existing obligations of the City to maintain designated areas pursuant to prior written notice from the State that work in such areas, which the City has agreed to maintain pursuant to the terms of the Freeway Agreement, has been completed.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF LEMON GROVE

By 
Mayor

City Clerk

Approved as to form and
procedure:


City Attorney

By _____

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

ADRIANA GIANTURCO
Director of Transportation

By 
District Director

MAR 04 1980

RESOLUTION NO. 301

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LEMON GROVE AUTHORIZING THE MAYOR TO SIGN A
FREEWAY MAINTENANCE AGREEMENT

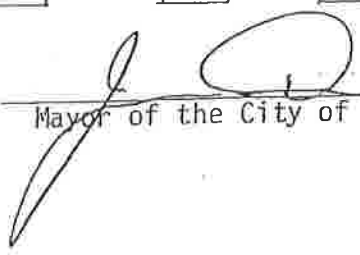
WHEREAS, certain agreements were entered between the County of San Diego and the State of California which established the maintenance responsibility for certain surface streets and pedestrian facilities across that portion of State Highway 94 lying in the unincorporated area; and

WHEREAS, the City of Lemon Grove finds that it is in the best interest to enter a freeway maintenance agreement with respect to that portion of State Highway Route 94 lying within the limits of City of Lemon Grove.


NOW, THEREFORE, BE IT RESOLVED, that Mayor James V Dorman is authorized and directed to sign on behalf of the City Council of the City of Lemon Grove a document entitled "Freeway Maintenance Agreement No. 11-SD-947.09-9.99FMA11-8127."

Passed and adopted by the City Council of the City of Lemon Grove,
California on February 19, 1980, by the following vote:

Councilmen	Ayes	Noes	Abstain	Absent
James V. Dorman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robert F. Burns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dell Lake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jack Doherty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
W. Dale Bailey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


Mayor of the City of Lemon Grove

ATTEST:


City Clerk of the City of Lemon Grove

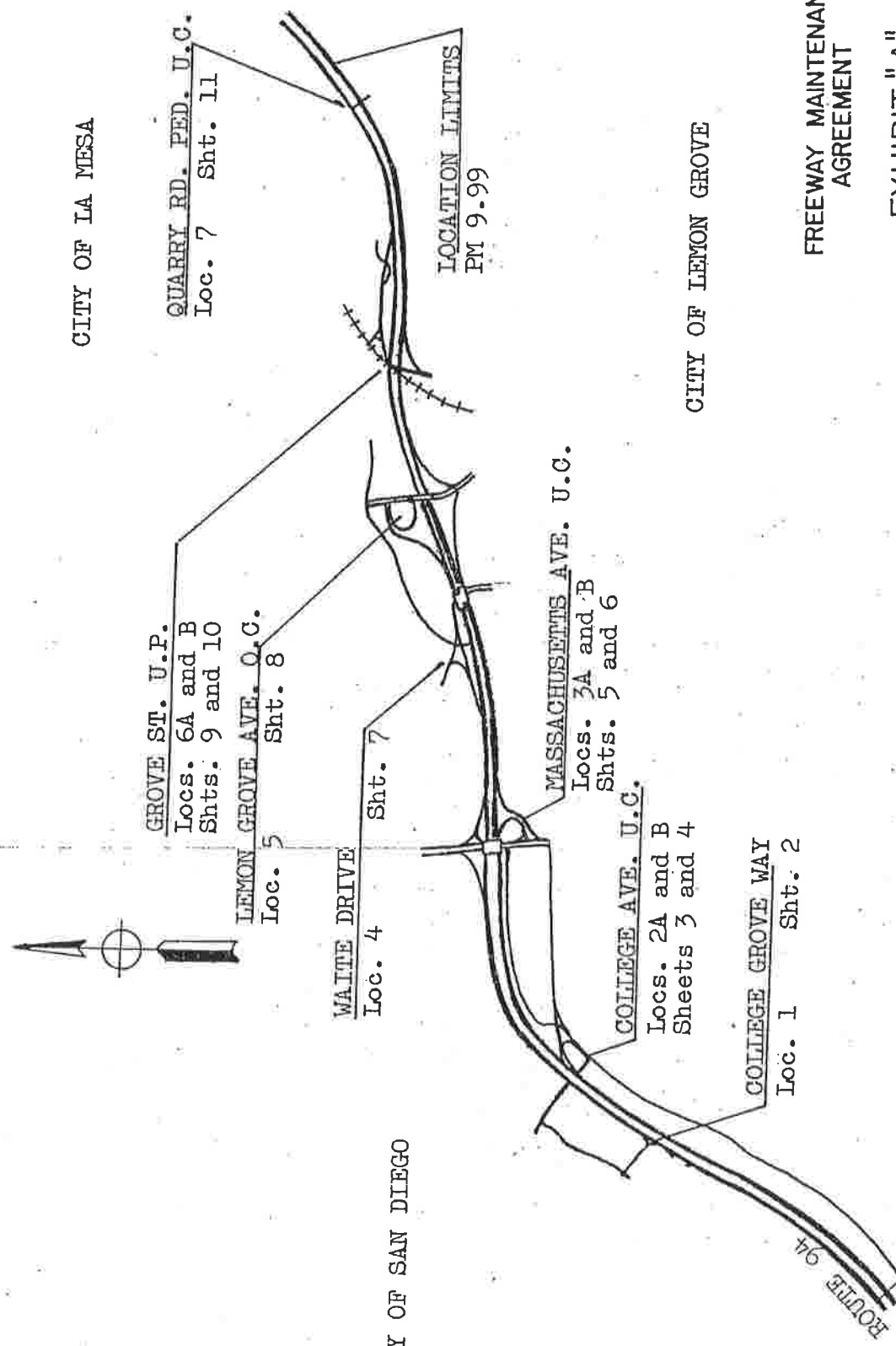
CERTIFICATION OF CITY CLERK

I, Karen Thomson, City Clerk of the City of Lemon Grove, California
do hereby certify the foregoing to be a true and exact copy of Resolution
No. 301, duly passed and adopted by the City Council of said City
on February 19, 1980.


City Clerk

DIST.	CO.	RTE.	POSTMILE
11	SD	94	7.1-
FMA 11-8127			

10.0



CITY OF LA MESA

CITY OF SAN DIEGO

CITY OF LEMON GROVE

FREEWAY MAINTENANCE
AGREEMENT

EXHIBIT "A"

SHEET 1 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	7.24
FMA 11-8127			

City of San Diego to
maintain City street
to Freeway Limits line

College Grove Way



Freeway Limits

ROUTE 94



☐ AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY State

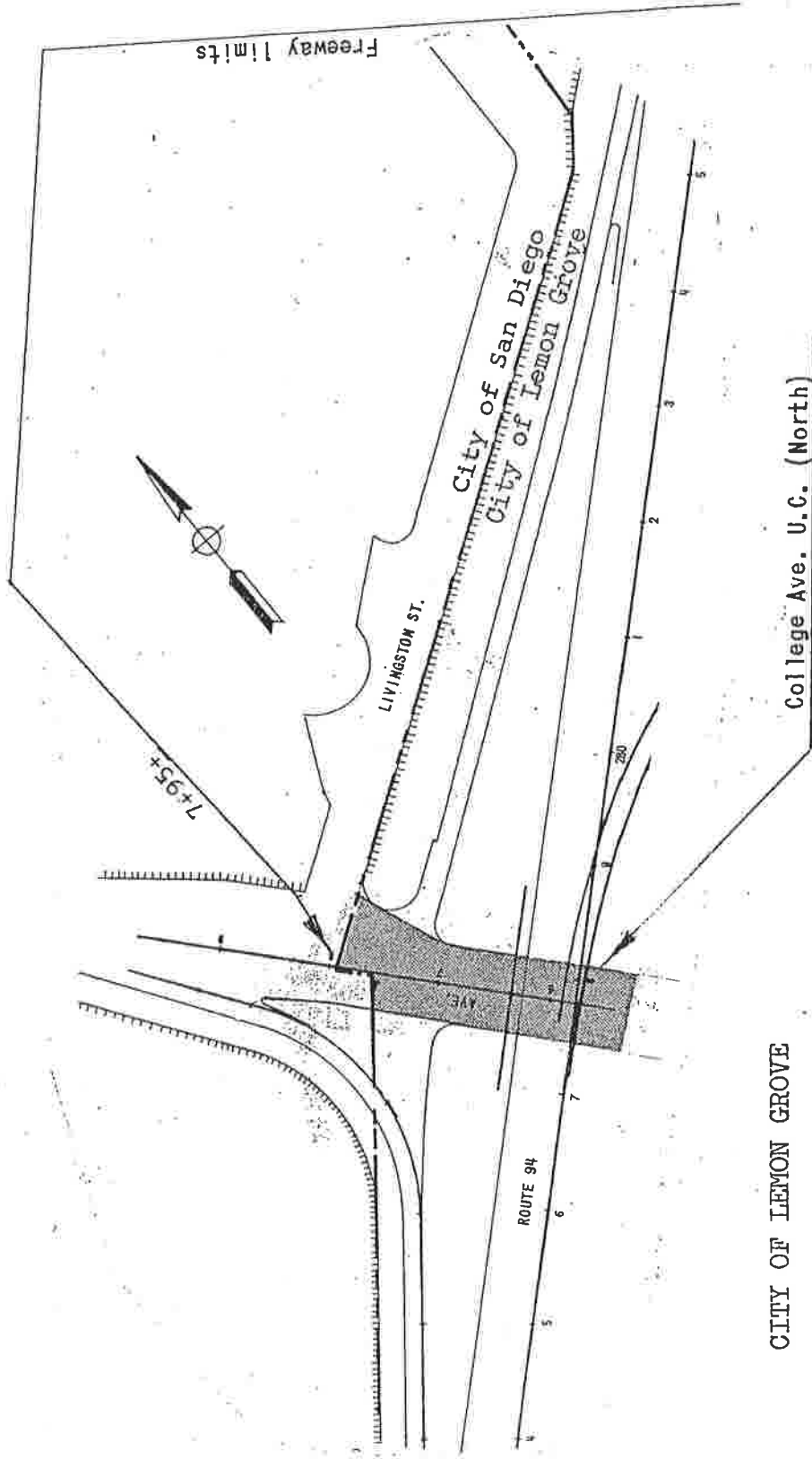
LOCATION # 1
EXHIBIT "A"

CITY OF LEMON GROVE

SHEET 2 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	7.758
FMA 11-8127			

CITY OF SAN DIEGO

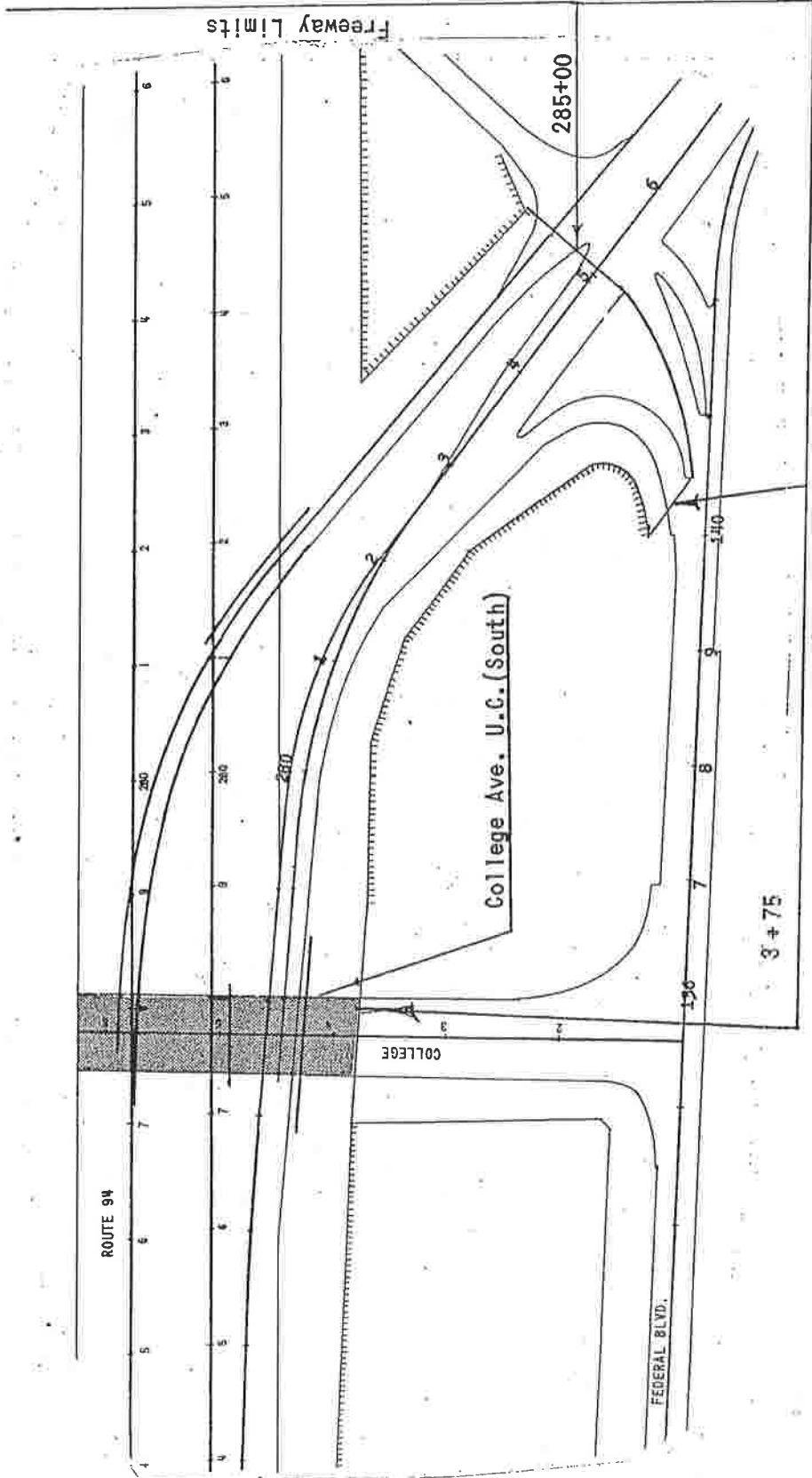


LOCATION # 2A
EXHIBIT "A"

SHEET 3 OF 11 SHEETS

College Ave. U.C. (North)
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY City of Lemon Grove.

DIST.	CO.	RTE.	POST MILE
11	SD	94	7.758
FMA 11-8127			



LOCATION # 2B
EXHIBIT "A"

CITY OF LEMON GROVE

College Ave. U.C. (South)
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY City of Lemon Grove.

DIST.	CO.	RTE.	POST MILE
11	SD	94	8.274
FMA 11-8127			

CITY OF LA MESA.

92+75

Waite Drive

Freeway limits

W187A 87.

ADVERTISING

Massachusetts Ave. U.C. (North)

THE JOURNAL

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Massachusetts Ave. U.C. (North)

AREA WITHIN FREEWAY LIMITS

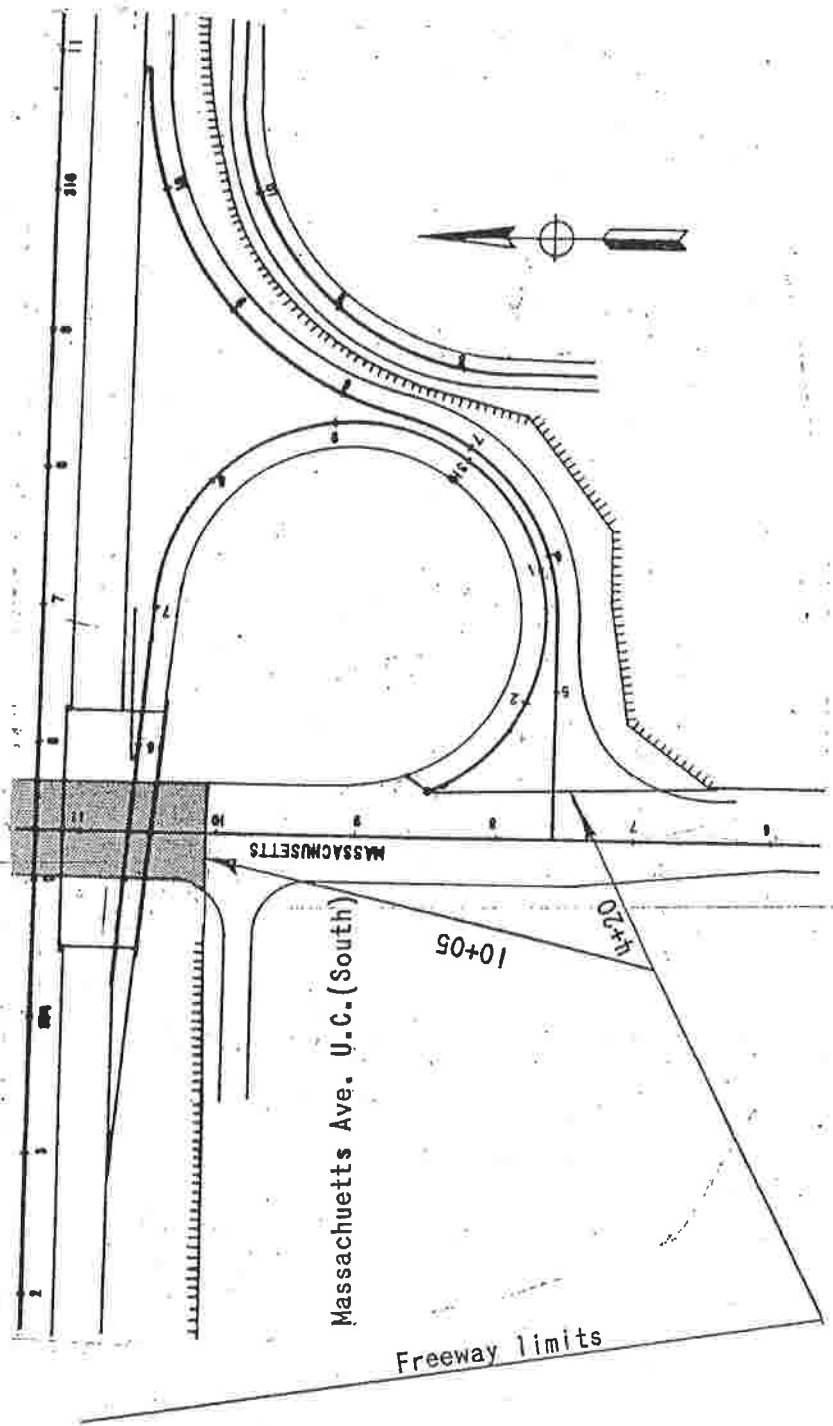
TO BE MAINTAINED BY City of Lemon Grove.

LOCATION # 3A
EXHIBIT "A"

SHEET 5 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	8.274
FMA 11-8127			

CITY OF LEMON GROVE



Massachusetts Ave. U.C. (South)

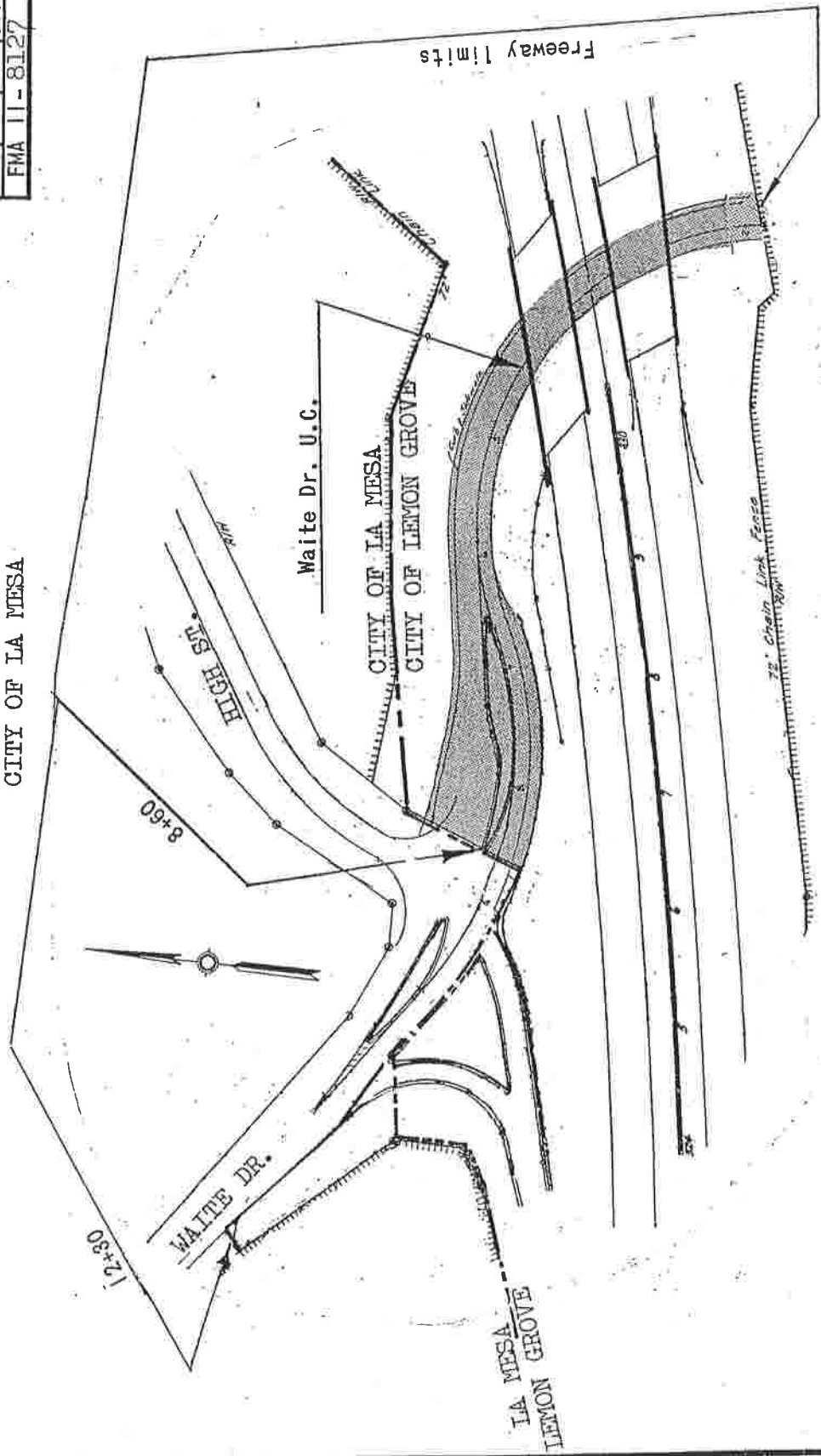
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY City of Lemon Grove.

LOCATION # 3B
EXHIBIT "A"

SHEET 6 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	8.765
FMA 11-8127			

CITY OF LA MESA



BUENA VISTA

CITY OF LEMON GROVE

LOCATION #4
EXHIBIT "A"

Waite Dr. U.C.
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY City of Lemon Grove.

DIST.	CO.	RTE.	POST MILE
11	SD	94	8.083
FNA 11-8127			

CITY OF LA MESA
CITY OF LEMON GROVE

ROUTE 94

Lemon Grove Ave.

CITY OF LEMON GROVE

Freeway Limits

338+00

Lemon Grove Ave. (South) U.C.

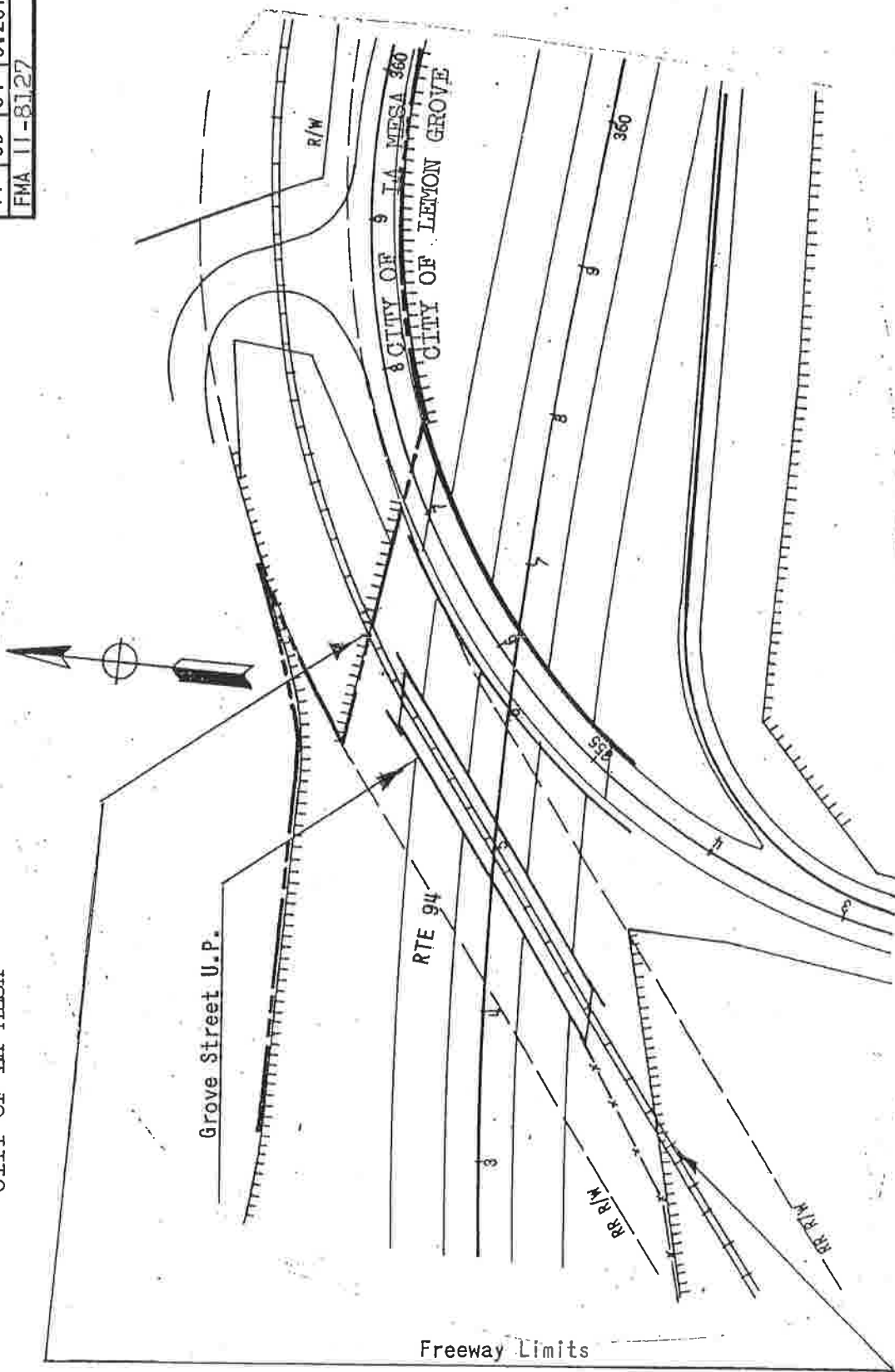
AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY City of Lemon Grove.

LOCATION # 5
EXHIBIT "A"

SHEET 8 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	9.231
FMA 11-8127			

CITY OF LA MESA



Grove St. U.P.

AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY S.D. & A.E.



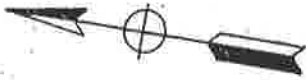
CITY OF LEMON GROVE

LOCATION #6A
EXHIBIT "A"

SHEET 9 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	8	9.255
FMA 11-8127			

357+30



CITY OF LA MESA

CITY OF LA MESA
CITY OF LEMON GROVE

Grove St. O.C.

RTE 94

Freeway Limits

353+70

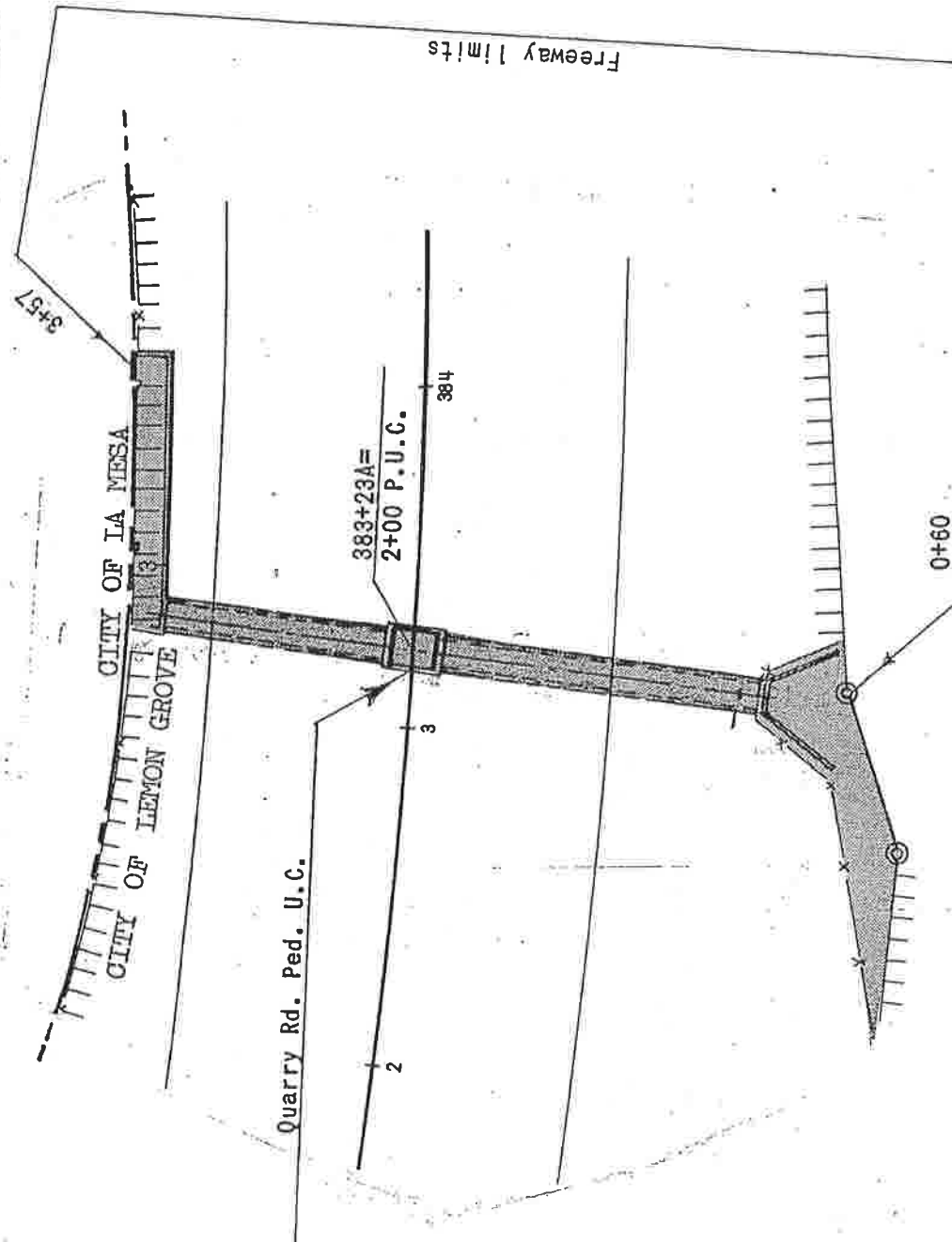
CITY OF LEMON GROVE

LOCATION #6B
EXHIBIT "A"

AREA WITHIN FREEWAY LIMITS
TO BE MAINTAINED BY CITY OF LEMON GROVE.

SHEET 10 OF 11 SHEETS

DIST.	CO.	RTE.	POST MILE
11	SD	94	9.76
FMA 11-8127			



LOCATION # 8
EXHIBIT "A"

Quarry Rd. Ped. U.C.
 AREA WITHIN FREEWAY LIMITS
 TO BE MAINTAINED BY CITY OF LEMON GROVE.

RESOLUTION NO. 2014-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN MIGUEL ANGEL GODOY AND THE CITY OF LEMON GROVE FOR THE INSTALLATION AND MAINTENANCE OF A MURAL ON THE STATE ROUTE 94 OVERPASS AT BUENA VISTA AVENUE

WHEREAS, in March 2014, the San Diego Museum of Art determined that Lemon Grove was an appropriate community in which to present its Open Spaces Program, funded by the James Irvine Foundation; and

WHEREAS, between July 14, 2014 and November 15, 2014, the San Diego Museum of Art sponsored seven community workshops in an effort to solicit feedback on possible public art projects; and

WHEREAS, through a collaborative effort, the community determined to install a mural (the "Artwork") on the State Route 94 ("SR94") overpass at Buena Vista Avenue; and

WHEREAS, the intent of the Open Spaces Program is to have the Artwork installed by the end of January 2014, pending approval by Caltrans; and

WHEREAS, the City Council has reviewed a Memorandum of Understanding (the "MOU") between Miguel Angel Godoy (the "Artist") and the City of Lemon Grove (the "City"); and

WHEREAS, the intent of the MOU is to memorialize the relationship between the Artist and the City and to establish respective roles and obligations related to the public art project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Approves a Memorandum of Understanding between Miguel Angel Godoy and the City of Lemon Grove for the Installation and Maintenance of a Mural on the State Route 94 Overpass at Buena Vista Avenue (EXHIBIT 1); and
2. Authorize the City Manager to execute said Memorandum of Understanding. |

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Attachment C

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING BETWEEN MIGUEL ANGEL GODOY AND THE CITY OF LEMON GROVE FOR THE INSTALLATION AND MAINTENANCE OF A MURAL ON THE STATE ROUTE 94 OVERPASS AT BUENA VISTA AVENUE

WHEREAS, in March 2014, the San Diego Museum of Art determined that Lemon Grove was an appropriate community in which to present its Open Spaces Program, funded by the James Irvine Foundation; and

WHEREAS, between July 14, 2014 and November 15, 2014, the San Diego Museum of Art sponsored seven community workshops in an effort to solicit feedback on possible public art projects; and

WHEREAS, through a collaborative effort, the community determined to install a mural (the "Artwork") on the State Route 94 ("SR94") overpass at Buena Vista Avenue; and

WHEREAS, the intent of the Open Spaces Program is to have the Artwork installed by the end of January 2014, pending approval by Caltrans; and

WHEREAS, the intent of the Memorandum of Understanding (the "MOU") between Miguel Angel Godoy (the "Artist") and the City of Lemon Grove (the "City") is to memorialize their relationship and set forth their respective roles and obligations related to the public art project.

NOW, THEREFORE, the Artist and the City hereby agree to the following:

1. Permits.

A) The Artist and City agree to cooperate in preparing documents for approval of the Artwork project with Caltrans.

B) The Artist agrees to pay for Caltrans permit fees.

C) The Artist agrees to apply for a City of Lemon Grove encroachment permit and City agrees to not charge a fee for said permit.

2. Installation of Artwork.

A) The Artist agrees to install the Artwork at the SR94 bridge underpass at Buena Vista Avenue at its sole cost pursuant to the permit issued by Caltrans.

B) The Artist agrees to apply a double coating of Protective Clear Coat over the entire Artwork. The Artwork shall not be considered completed until the protective coating required under this MOU has been properly applied.

C) Prior to application of double coating of Protective Clear Coat, the Artist shall provide to the City a copy of the proposed coating specifications for the City's review and approval. The Artist shall notify the City a minimum of 72-hours prior to applying Protective Clear Coat in order to allow City inspection of its application.

D) During the installation of the Artwork, the City shall provide and manage traffic control.

E) By this MOU, the Artist agrees that the Artwork shall not be considered completed until the Artist complies with Section 2(B) of this MOU.

Attachment C

3. Ownership Rights and Copyright.

A) The Artist shall retain all copyrights to the Artwork created under this MOU, provided that Artist grant to the City irrevocable authorization to graphically depict the work for any non-commercial purpose whatsoever. City reserves the right to post the Artwork on the City of Lemon Grove's website, for City events, and in marketing publications, with credit to the Artist by name.

B) The Artist agrees to waive any and all claims, arising at any time and under any circumstance, against the City, its officers, agents, employees, and successors, arising under the Federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987 et seq.), and any other local, state, federal or international laws that convey right of the same nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code §§987 et seq., or any other type of moral right protecting the integrity of the Artwork. If the Artwork is incorporated into a structure such that the Artwork cannot be removed without physical defacement, mutilation, alteration, distortion, destruction, or other modification of the Artwork, Artist waives any and all such claims against the City, its agents, officers and employees for modifications of the Artwork.

C) The Artist agrees that all work performed under this MOU shall comply with all applicable patent, trademark, and copyright laws, rules, regulations, and codes of the State of California and the United States. Artist hereby warrants that the work does not, and the Artist has not and will not, utilize photographs, patent, trademark or copyright in performance under this MOU unless and until the Artist has obtained proper permission and all releases and other necessary documents.

D) To the fullest extent permitted by law, the Artist shall indemnify, defend and hold harmless the City, the City Council, and each member of the City Council, its officers, employers, volunteers, and agents from and against all claims, damages, losses, expenses, and other costs, including costs of defense and attorneys' fees, arising out of or in connection with the performance of the artwork, both on and off the job site, provided that any of the foregoing (1) is attributable to personal injury, bodily injury, sickness, disease or death, or to injury to our destruction of tangible property (other than the artwork itself), including the loss of use therefrom, and (2) is caused in whole or in part by any act, error, or omission of the Artist, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for those acts, errors, or omissions any of them may be liable, regardless of whether or not it is caused in part by any act, or error, or omission (active, passive, or comparative negligence included) of any party indemnified hereunder; provided however, that nothing herein shall relieve any party indemnified hereunder from liability to the extent that such liability arises from such party's sole established negligence, willful misconduct, or active negligence. Such obligation shall not be constructed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person indemnified in this section on indemnity. Artists' obligation to indemnify City shall not be restricted to insurance proceeds.

4. Maintenance.

A) Upon completion of the Artwork, City agrees to assume responsibility for maintaining (including graffiti removal) the Artwork at its sole cost and discretion.

B) Upon the Artwork's completion, the City shall have the absolute right to alter, repair, modify, remove (collectively, "Modify") the Artwork in the City's sole judgment. For example, the City may modify the Artwork to eliminate hazard, to comply with ADA regulations,

Attachment C

to remove graffiti, and otherwise to aid City in the management of property and surrounding area, through neglect or accident.

5. Insurance. Artist shall maintain in full force from the commencement of this MOU until the completion of the Artwork as defined in Section 4.B insurance and limits not less than those specified: (a) Worker's Compensation and Employer's Liability complying with any statutory requirements; (b) Comprehensive General Liability Insurance including a broad form Property Damage endorsement with a \$1,000,000 combined single limit each occurrence; (c) Comprehensive Auto Liability (including the owned, non-owned and hired automobile hazards) with a \$1,000,000 combined single limit each occurrence; (d) Contractual Liability with \$1,000,000 combined single limit each occurrence. If City desires, these limits may be increased or decreased.

6. Assignment. Neither party shall assign any right or obligation pursuant to this MOU without the written consent of the other party.

7. Authority. The individuals executing this MOU represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this MOU on behalf of the respective legal entities of the parties.

MIGUEL ANGEL GODOY

CITY OF LEMON GROVE

By: _____
Miguel Angel Godoy

By: _____
Graham Mitchell, City Manager

ATTEST:

By: _____
Susan Garcia, City Clerk

APPROVED AS TO FORM:

By: _____
James P. Lough, City Attorney